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EXAMINATION

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ON

Blackstone's Commentaries

ON

REAL PROPERTY.

(LEITH AND SMITH'S EDITION.)

BY
King
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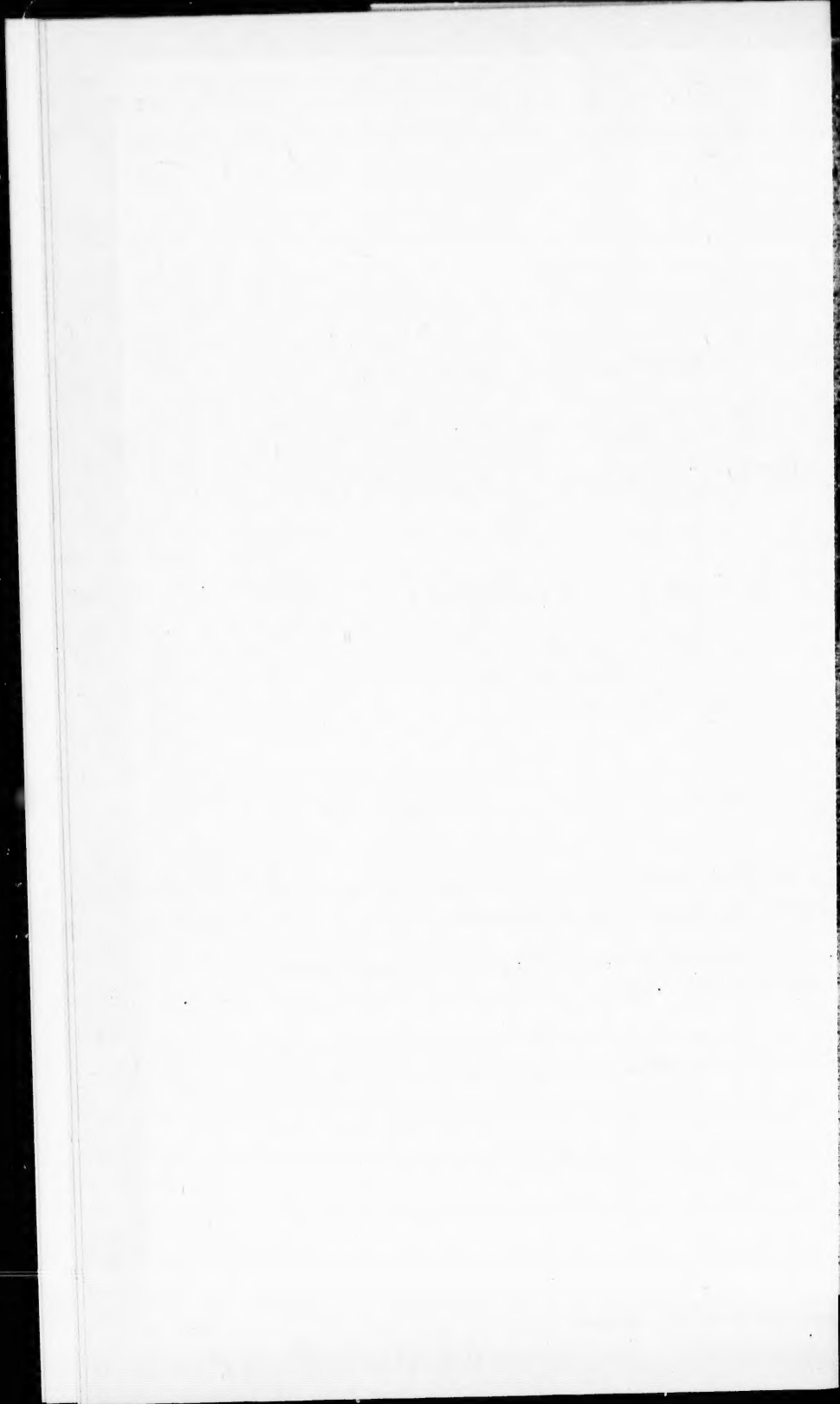
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EXAMINATION QUESTIONS
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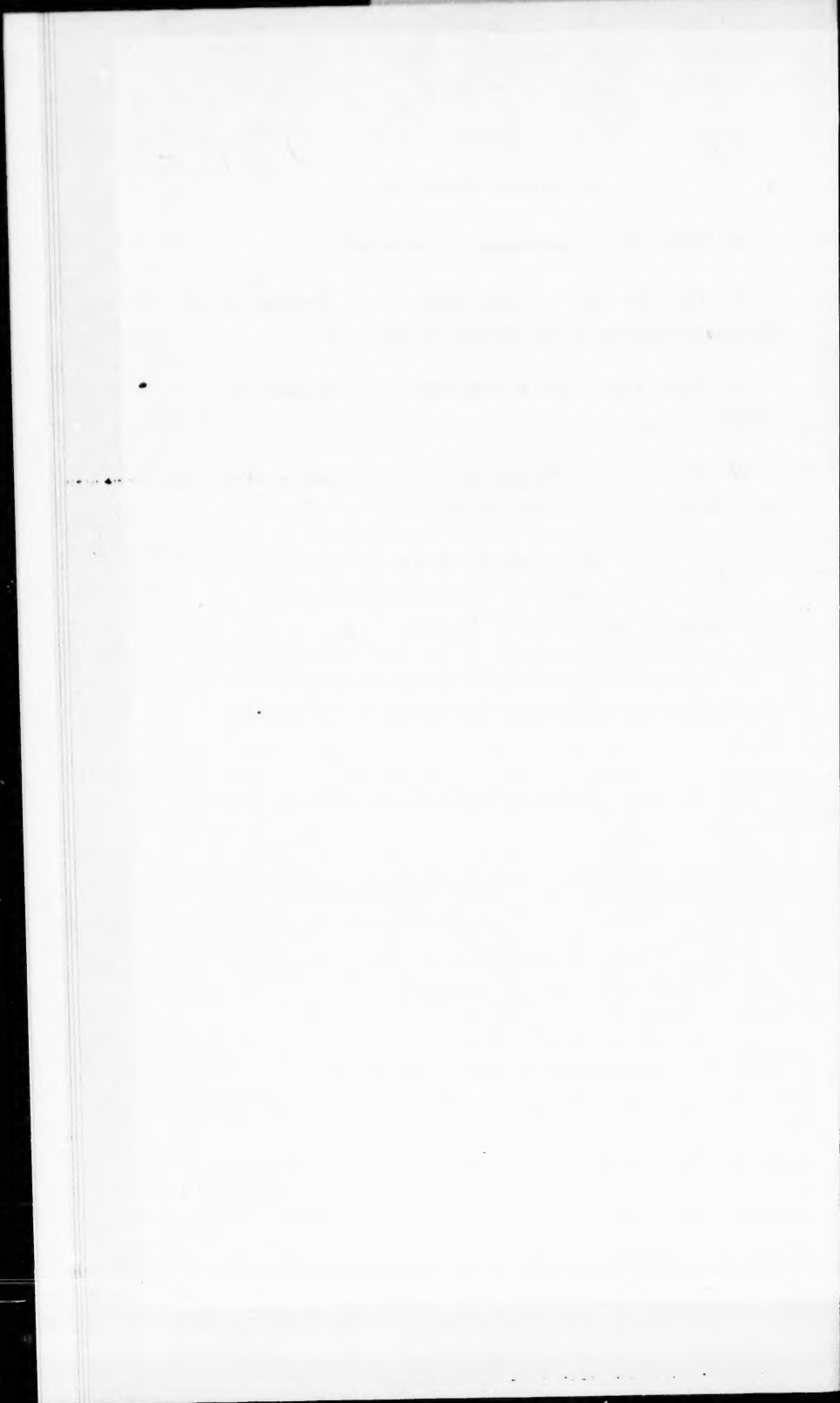
(LEITH AND SMITH.)

CHAPTER I.

1. Distinguish between *jura personarum* and *jura rerum*.
2. What is the foundation of man's dominion over external things, according to Blackstone?
3. Trace the process by which common, developed into individual, ownership.
4. Continue the description and trace the process down to the actual vesting of the property in individuals.
5. Some property is thrown away and some hid. Has the finder any proprietary interest?

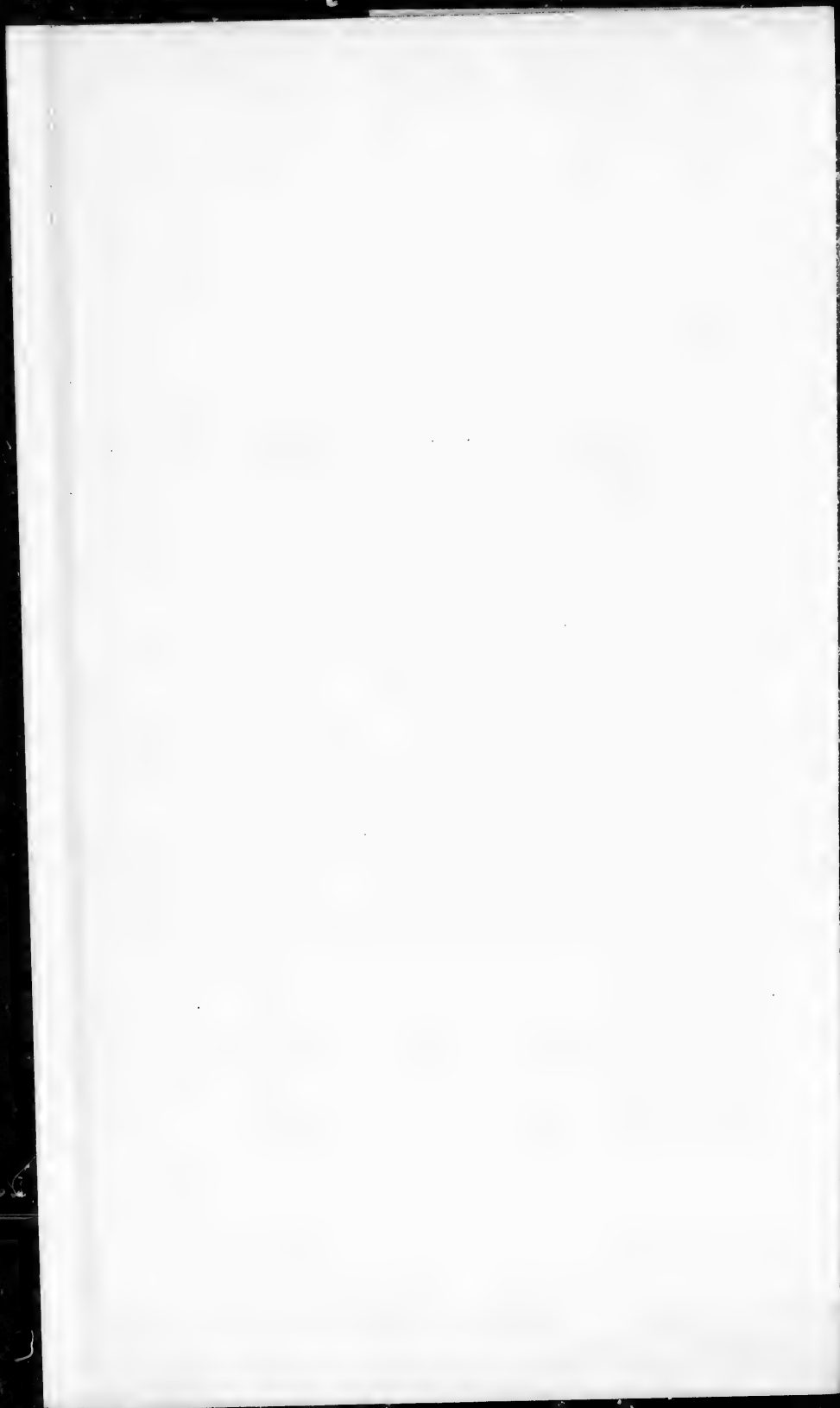


6. What do you understand by escheat?
 7. Did the right of inheritance or of devising by testament first receive the sanction of law?
 8. From what origin was the right of inheritance derived?
 9. Trace shortly and generally the origin and development of the right of devising by testament.
 10. Is natural justice violated if the heir should refuse to comply with the wishes of his ancestor as expressed in an improperly executed will? Explain.
 11. Mention some classes of things which cannot be appropriated by individuals but remain in the common stock.
 12. To what extent may property be held in such things?
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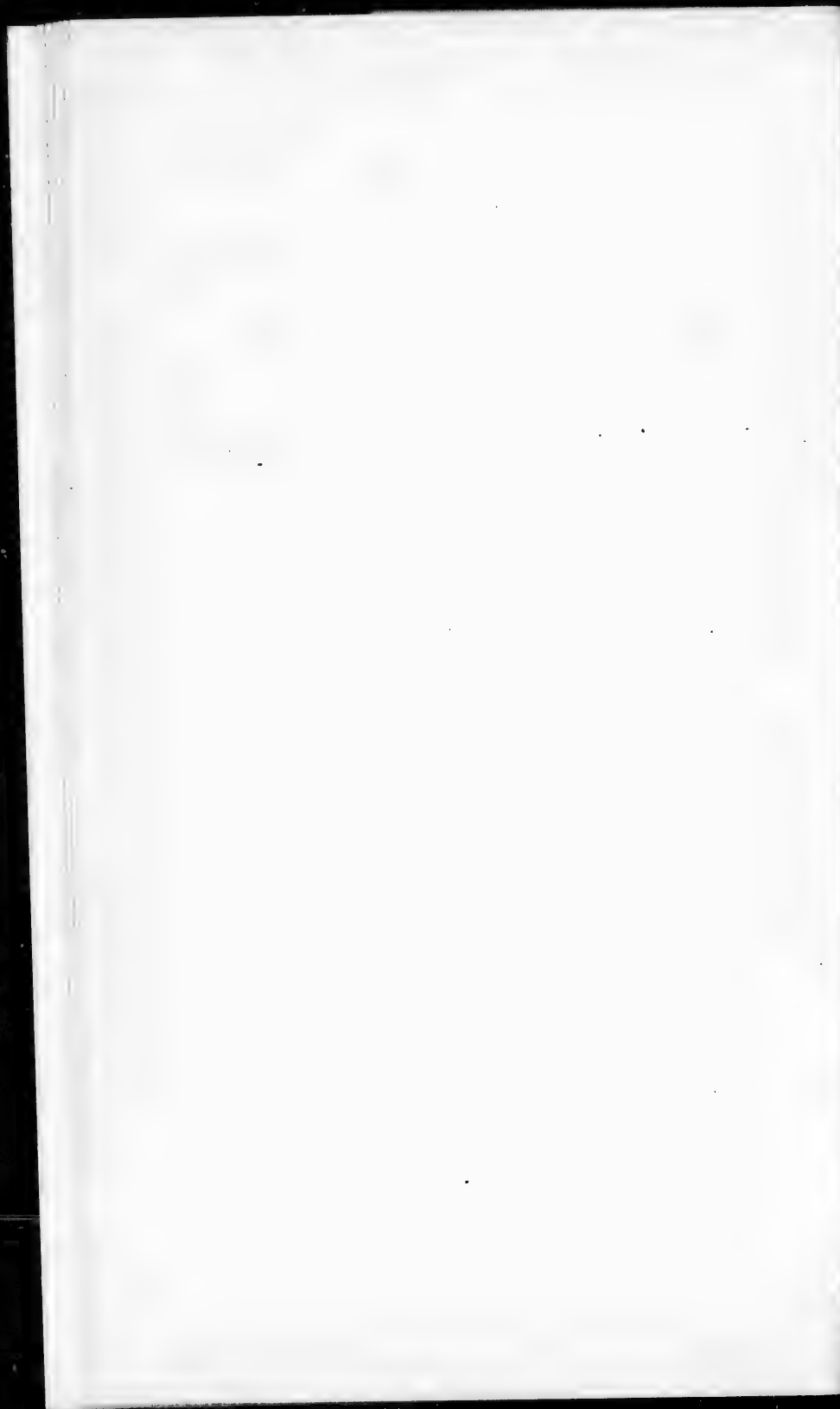


CHAPTER II.

1. In what different ways may colonies be acquired?
2. What system of laws are in force in a colony acquired by occupancy?
3. To what extent are such laws to be held to be in force?
4. Should doubts arise as to whether or not a certain law is in force, by what means must such doubts be resolved?
5. What system of laws are in force in a country settled by British subjects, but theretofore uncivilized?
6. Will the fact of the British having had to conquer the uncivilized tribes differ the case?
7. Will laws enacted by the British Parliament after the acquisition of a colony by occupancy be in force in such colony?
8. Has the British Parliament power to enact laws binding upon such colony?
9. What statutory law is there upon this subject?



10. Distinguish between colonies acquired by occupancy and those acquired by conquest?
11. What laws are in force in colonies acquired by conquest?
12. What power of enacting laws for a colony acquired by conquest remains in the British Parliament after the power to make its own laws has been acceded?
13. What laws are in force in colonies acquired by cession?
14. In what way did the old Province of Canada become a colony of Great Britain?
15. In what way did Acadia become a colony of Great Britain?
16. How many senators and members of the House of Commons does Nova Scotia send to the Dominion Parliament?
17. How many senators and members of the House of Commons does New Brunswick send to the Dominion Parliament?
18. Give the constitutional history of Prince Edward Island, so far as stated by Messrs. Leith and Smith.
19. To what representation in the Dominion Parliament is it entitled?



20. In what year was British Columbia annexed to Canada ?

21. To what representation in the Dominion Parliament is it entitled ?

22. Detail the steps leading to the incorporation into Canada of Rupert's Land and the North-West Territories.

23. To what representation in the Dominion Parliament is it entitled ?

24. What limitation was attached to the cession of Canada by the French ?

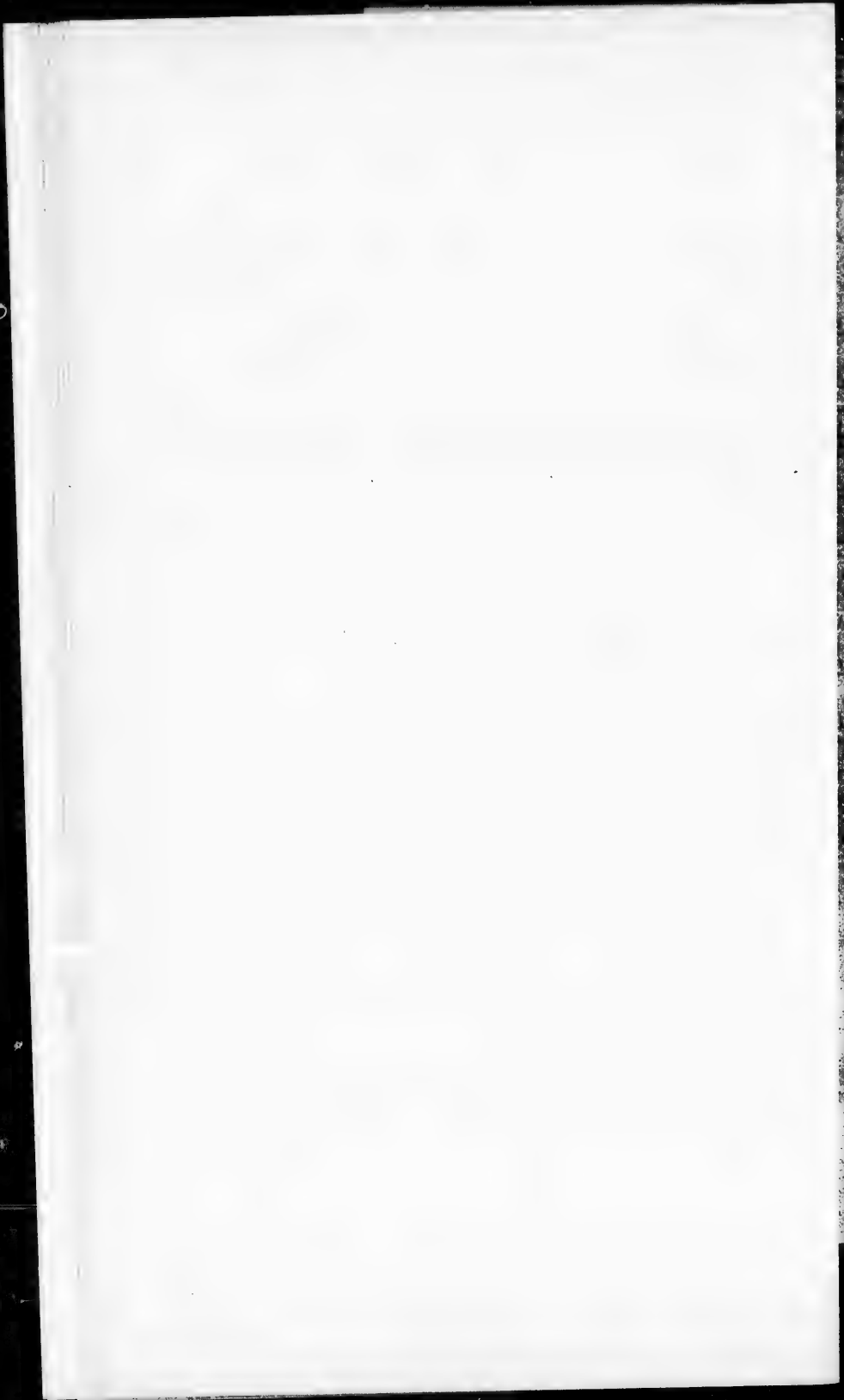
25. What was the effect of the first British proclamation relative to the laws in Canada ?

26. What was the effect of the British Statute of 1774 revoking this proclamation ?

27. In what year was the Province of Quebec divided into the Provinces of Upper and Lower Canada ?

28. Mention some of the more important provisions of the Statute enacting the division.

29. What was the first Act of the first Parliament of Upper Canada ?



30. What was the second Act of the same Parliament?
31. On what date were the English laws introduced into the Province of Upper Canada?
32. Were the Mortmain Acts introduced into the Province of Upper Canada? Can the question now be looked upon as settled?
33. Mention broadly the point upon which the controversy as to their introduction had to be determined.
34. In what way did the maxim *mentio unius, exclusio alterius* form an argument in the dispute?
35. If a Statute was introduced by the general introduction of English law, would its subsequent repeal in England have any effect upon its force in this Province?
36. By force of what legislation does the right to the writ of *fi. fa.* against lands exist in this Province?
37. At what period was the Court of Chancery established?
38. What jurisdiction was assigned to the Court of Chancery?
39. What jurisdiction was given to the Court of Chancery in matters of partition?

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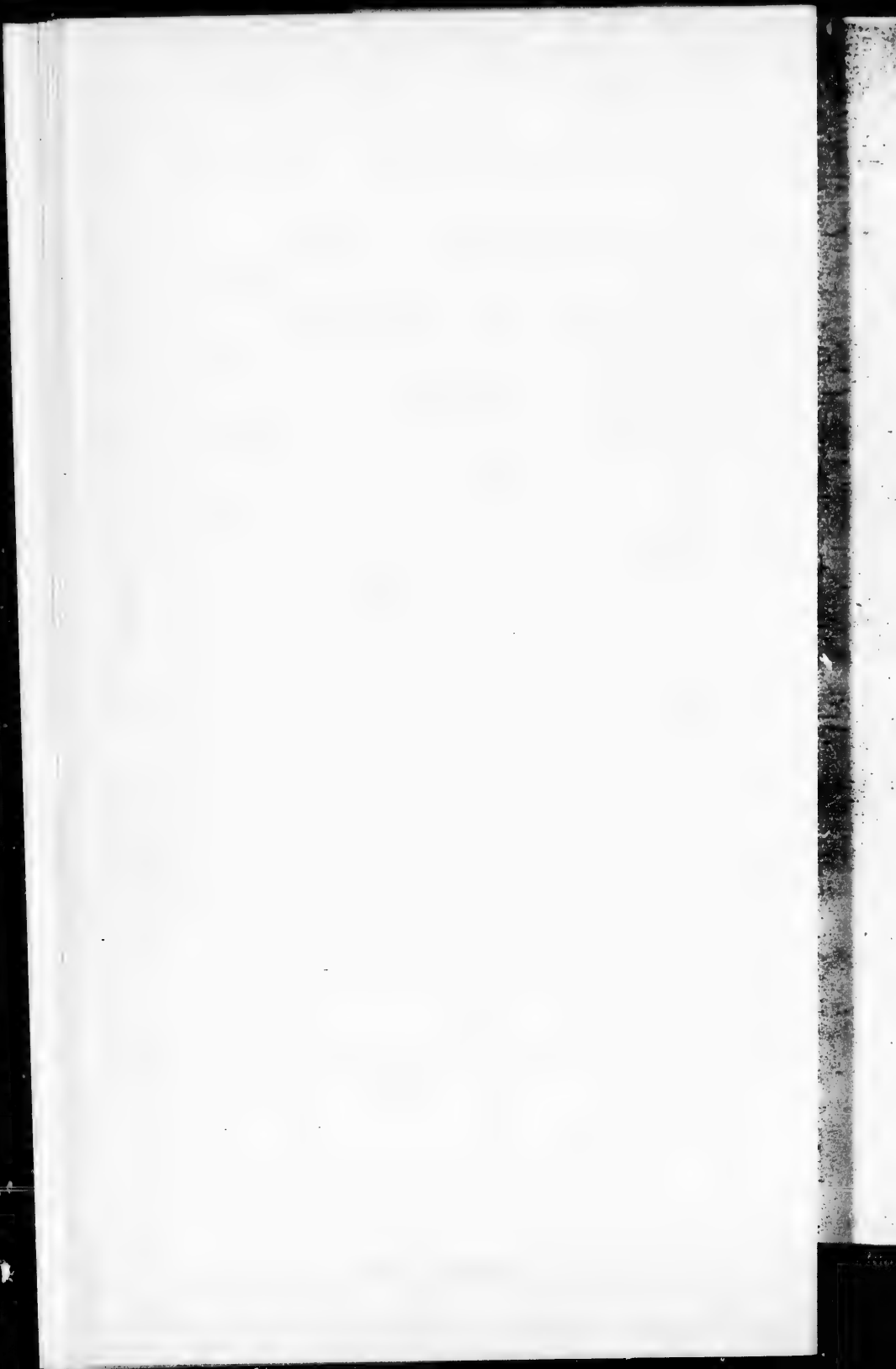
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40. Did the Court acquire jurisdiction in regard to leases and sales of settled estates ?
41. What jurisdiction has the Court of Chancery in matters of revenue ?
42. At what date were the Provinces of Upper and Lower Canada reunited ?
43. What is the date of confederation ?
44. What is the effect of more recent legislation of the British Parliament relative to the North-West Territories ?
45. Detail the constitution of the Government of the Dominion.
46. What various courses may be pursued by the Governor-General upon presentation to him of a Bill for the Queen's assent ?
47. Should the Governor-General reserve his assent to the Bill, may it at any future time be given.
48. Should the Governor-General reserve the Bill for the Queen's assent, within what period must that assent be given ?
49. What would be the effect should the assent not be given within two years ?



50. Detail the constitution of the Province of Ontario.
51. What are the provisions as to the reservation of Bills and disallowance of Acts of the Legislative Assembly of the Province?
52. Speaking generally, what is the extent of the jurisdiction of the Dominion Parliament?
53. Mention some of the more important matters which are exclusively within the jurisdiction of the Parliament of Canada.
54. What jurisdiction has the Dominion Parliament and the Legislative Assembly of Ontario respectively relative to taxation?
55. To which Legislature was jurisdiction assigned in the following matters :—
- (1) Savings Banks.
 - (2) Weights and Measures.
 - (3) Public and Reformatory Prisons.
 - (4) Saloon and Shop Licenses.
 - (5) Railways.
 - (6) Interest.
 - (7) Marriage and Divorce.
 - (8) Penitentiaries.

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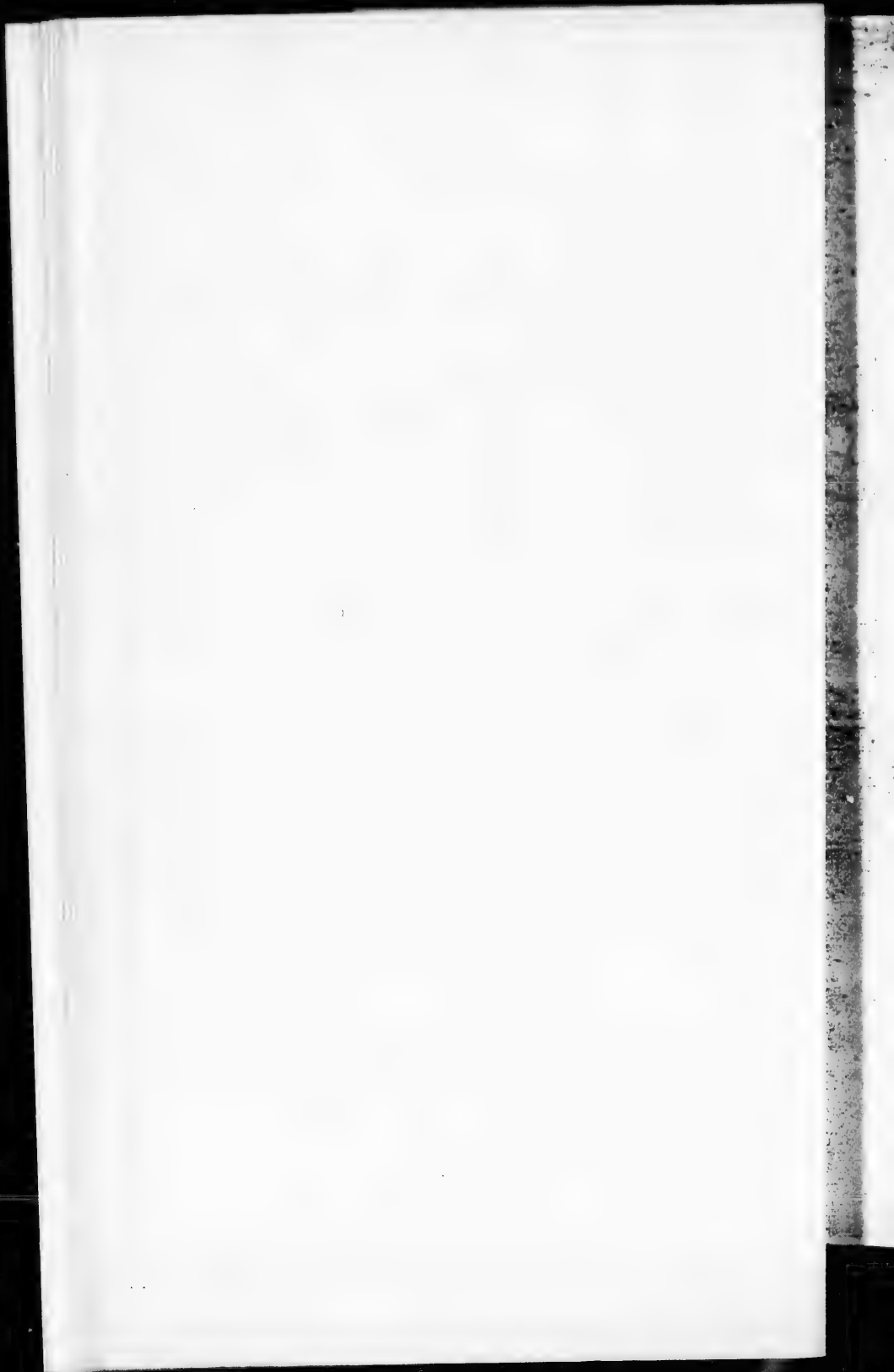
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- (9) Criminal Procedure.
 - (10) Incorporation of Companies.
 - (11) Property and Civil Rights.
 - (12) Imposition of Fines, Penalties, etc.
 - (13) Education.
 - (14) Agriculture.
 - (15) Immigration.
56. Where is the power of judicial appointment?
57. Can a subject be deprived of his right to take his case before the Queen in Council?
58. State shortly the effect of the Imperial Statutes relative to colonial taxation.
59. Cite an instance of legislation, by the Imperial Parliament, relative to the reception of evidence in a Colonial Court, subsequent to the grant, and erection, of a local Legislature.
60. What is the effect of Imperial legislation relative to the rights of colonists in respect of works copyrighted in Great Britain?



61. Will bankruptcy in England vest in the assignee the legal estate in lands in Ontario?

62. A trustee of lands situate in Ontario resides in England and is of unsound mind. From whom should a conveyance be obtained?

63. Trace the introduction of English Criminal Law into the Province of Upper Canada.

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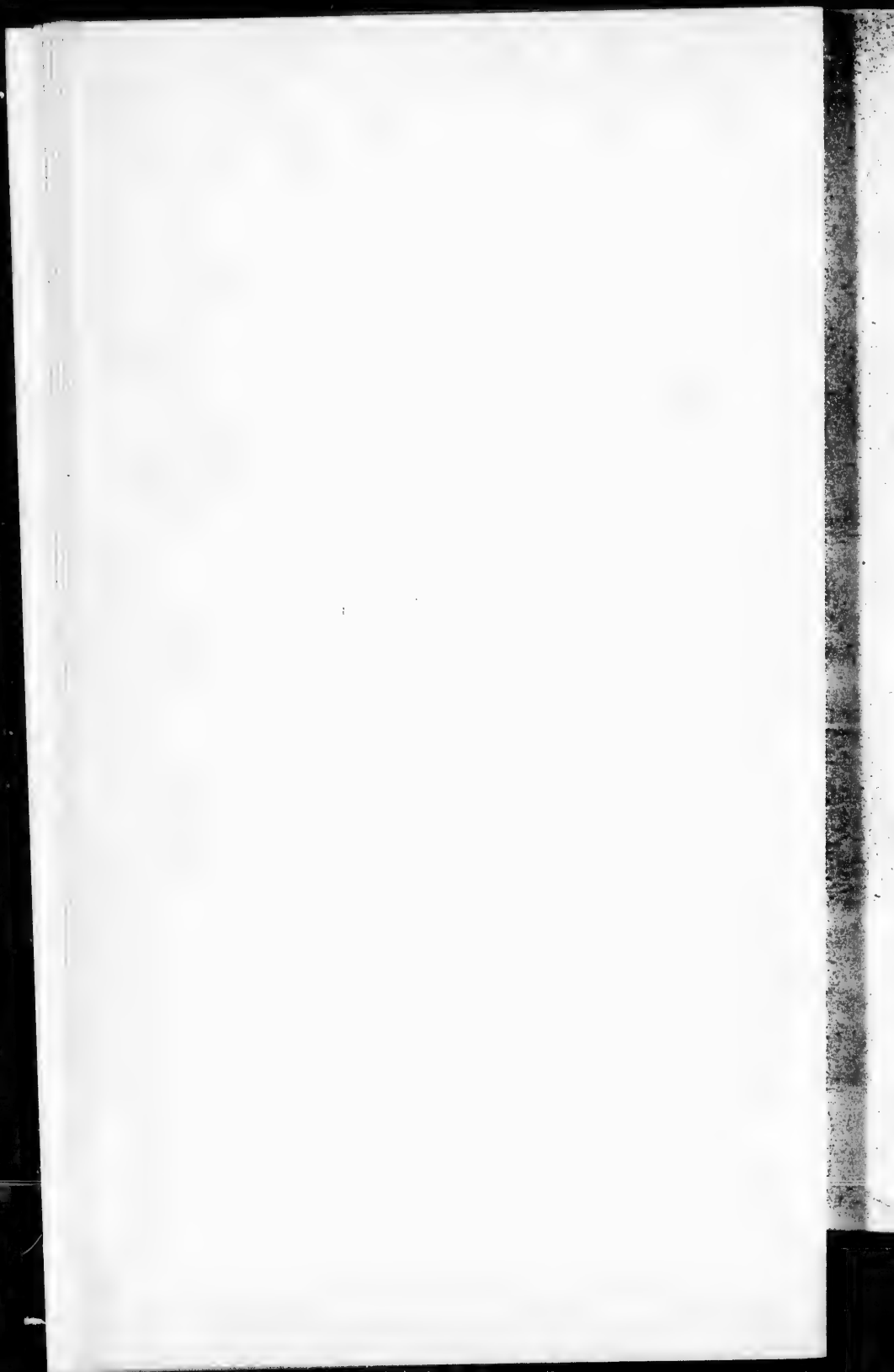
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CHAPTER III.

1. Distinguish between real and personal property.
2. Define the term *land*.
3. Define the term *tenement*.
4. Mention various classes of property to which the term *liberum tenementum* is applicable.
5. Define the term *hereditament*.
6. Under which division of real property should be placed (1) houses, (2) offices, (3) franchises, (4) heir-looms, (5) advowsons, (6) commons?
7. Into what two classes are hereditaments divisible?
8. Define and distinguish between corporeal and incorporeal hereditaments.
9. To which class should waters be assigned?
10. In what form should an action to recover a pond of water be brought?
11. What do you understand by *Cujus est solum, ejus est usque ad cælum*?



CHAPTER IV.

1. Is a rent a corporeal or incorporeal hereditament?
2. Mention some instances of incorporeal hereditaments.
3. What is an advowson?
4. By what different methods may a right of way be acquired?
5. A grants a right of way to B. A. dies. Does the right pass to any person?
6. What lapse of time is sufficient to give a right of way by prescription?
7. Under what circumstances will a right of way by necessity arise?
8. A way is out of repair. What are the privileges of him in whom the right of way is vested?
9. Distinguish between a rent charge and an annuity?

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10. An annuitant dies between two periods for payment. Were his representatives at common law, and are they now entitled to any portion of the amount accruing due?

11. Define a rent.

12. Must a rent be payable in money in order that the landlord may distrain?

13. Can a rent be reserved out of (1) an advowson, (2) a common, (3) an office?

14. Mention the three varieties of rent which existed at common law.

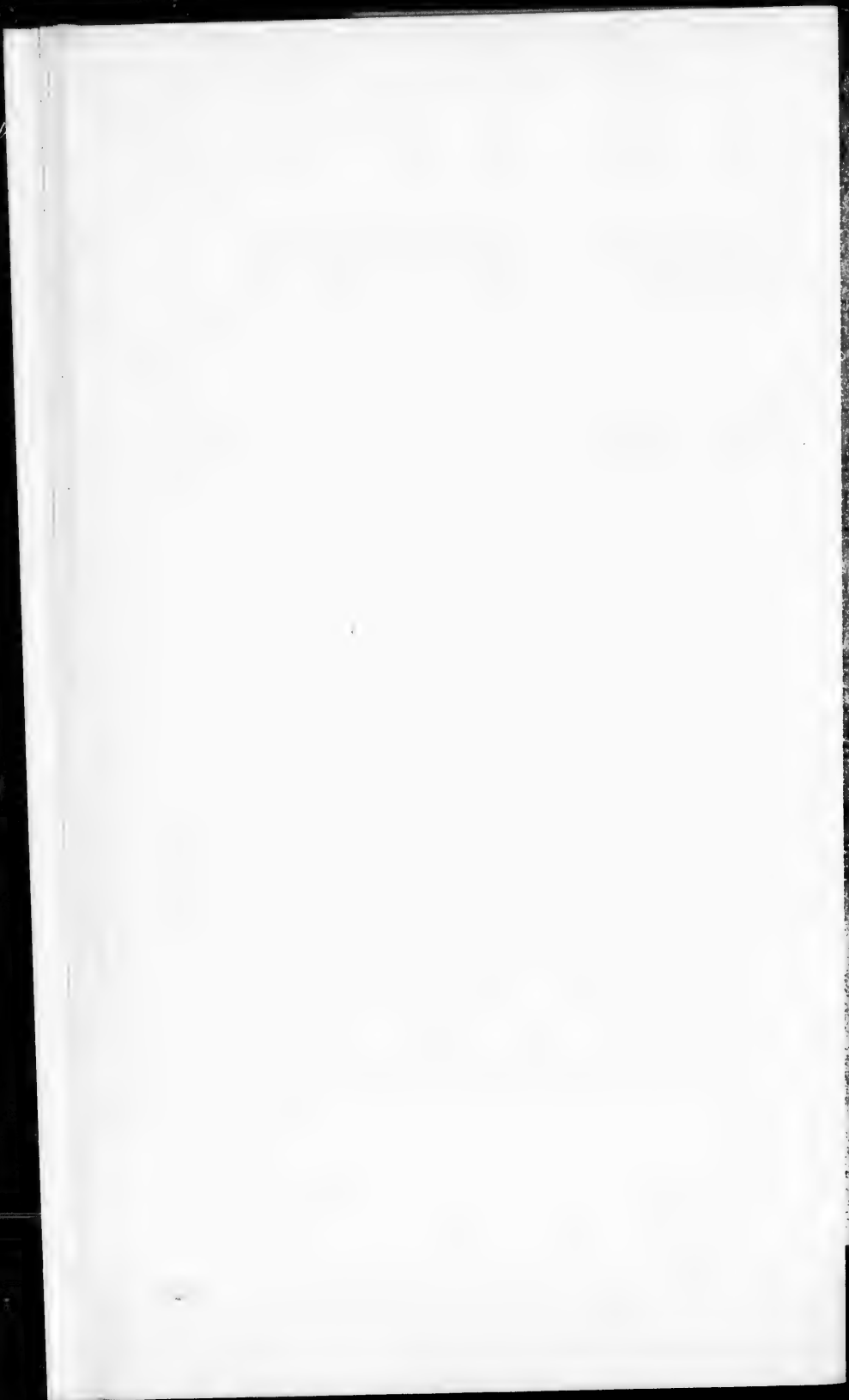
15. Define rent service.

16. Can distress be made for rent service?

17. After rents fall due, but before payment, the landlord sells and conveys his reversion. What is the position of the parties relative to the right of distress?

18. In such case why could not the original landlord distrain?

19. And why could not the assignee of the reversion distrain?



20. Can rent overdue be assigned so as to pass to the assignee a right to bring an action in his own name?

21. By virtue of what authority may overdue rent be so assigned?

22. A lessor by deed assigned future rent, with power to distrain on the lessee for its collection. Could the assignee distrain in his own name? What would appear to be an objection to his so doing?

23. A lessor dies intestate. To whom will belong rent overdue at the time of his death?

24. In whom would the reversion become vested?

25. Who could distrain for the overdue rent?

26. Under what circumstances and within what period must such distress be made?

27. What authority is there for such a proceeding?

28. A leases to B., reserving a rent of \$100 per annum. B. sub-lets to C., reserving a rent of \$150 per annum. B. assigns his reversion to A. Describe the position of A. at common law.

29. Why in such case could not A. distrain upon C. for the greater rent?

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30. Could A. sue for the greater rent ?
31. Could A. sue or distrain for the lesser rent ?
32. What objection exists, apart from statute, to a landlord distraining after the expiration of the term ?
33. What, precisely, is the remedy given by statute ?
34. In what reign was the statute passed ?
35. Define a rent-charge.
36. The owner of land makes an absolute grant of it to another reserving an annual payment of \$100. What is the effect, and operation, of such a conveyance ?
37. Give an example of a rent-charge granted under the operation of the Statute of Uses.
38. A rent-charge is granted out of Whiteacre and Blackacre. The grantee purchases Whiteacre, and releases one half of the rent. Can he afterwards distrain upon Blackacre for the remaining portion of the rent ?
39. What would have been the objection to his so doing ?

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40. Has the common law been altered in this respect by statute?

41. Can you argue that this statute does not apply so as to prevent a release of all the property on a purchase of part of the lands?

42. Define a rent-seck.

43. In what way may it arise?

44. May rent-seck now be distrained for? Give your authority.

45. What do you mean by apportionment of rent? Under what circumstances will it take place?

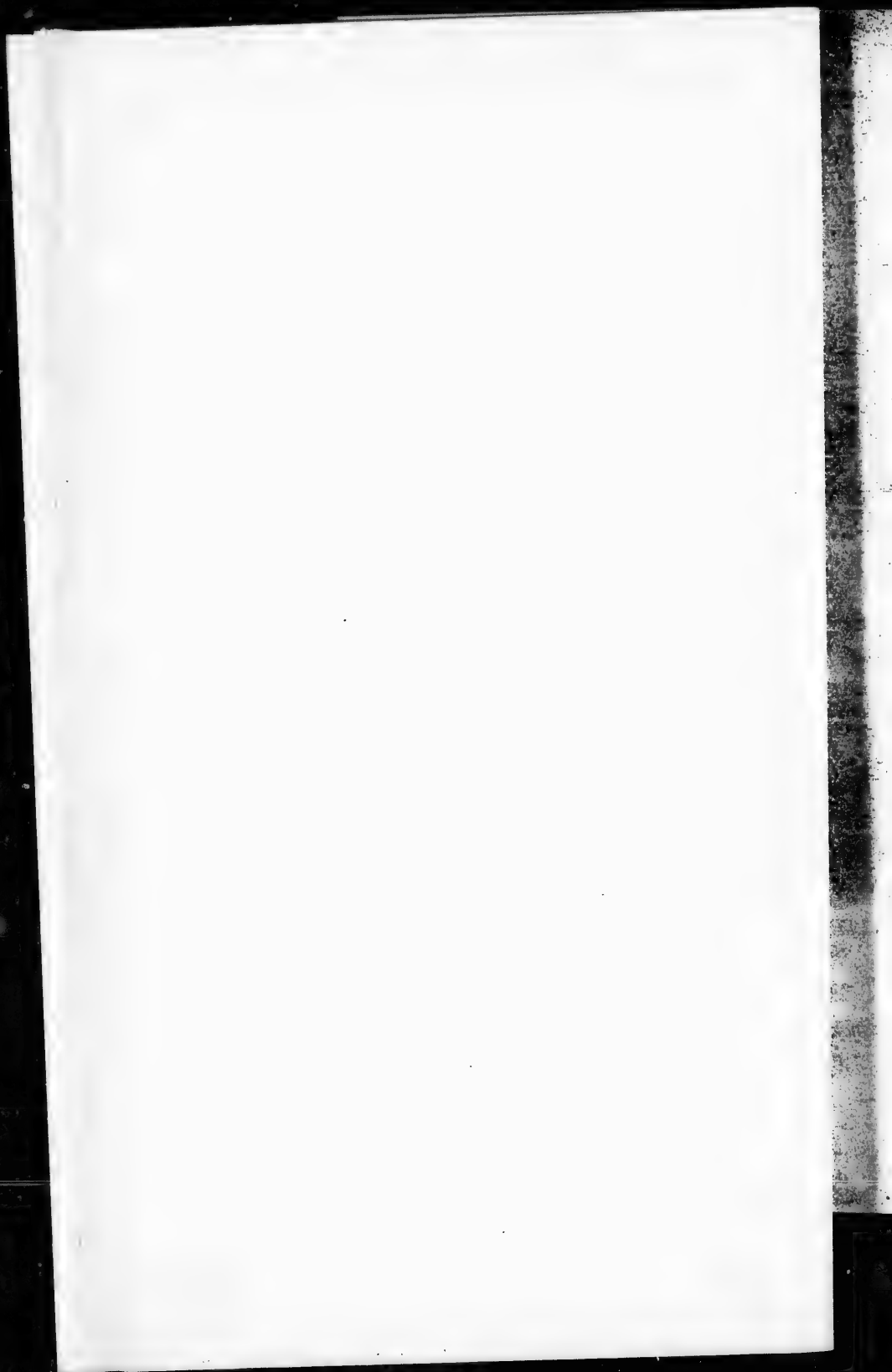
46. Define a rack-rent.

47. Mention some classes of franchises.

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CHAPTER V.

1. What was the origin of the constitution of feuds?
2. What were the reciprocal duties of lord and feudatory?
3. Mention the principal reason for the rapid extension among the nations of the feudal system.
4. At what period was the feudal system introduced into England?
5. Describe the manner of the extension of the feudal system in England.
6. What is the feudal signification of the word conquest?
7. On what occasion is it probable that the feudal system was formally introduced into England?
8. What great work or compilation was completed in the same year?



9. What may be said to be the most fundamental maxim, and necessary principle, of the early English tenures?

10. In what reign was the first Charter granted?

11. What grievances was this Charter intended to remove?

12. In what reign and at what place was the Great Charter granted?

13. Show that the liberties granted by the various Charters were not encroachments upon the King's prerogative—not an extension of the liberties of the people, but a recognition of them.

14. What were the operative words in a grant of a feud?

15. What act was necessary to the completion of a grant?

16. Describe the ceremony denominated *homagium*.

17. What was the origin of the *tenendum* clause in deeds of conveyance?

18. What two services was the feudatory in a pure feud bound to render to his lord?

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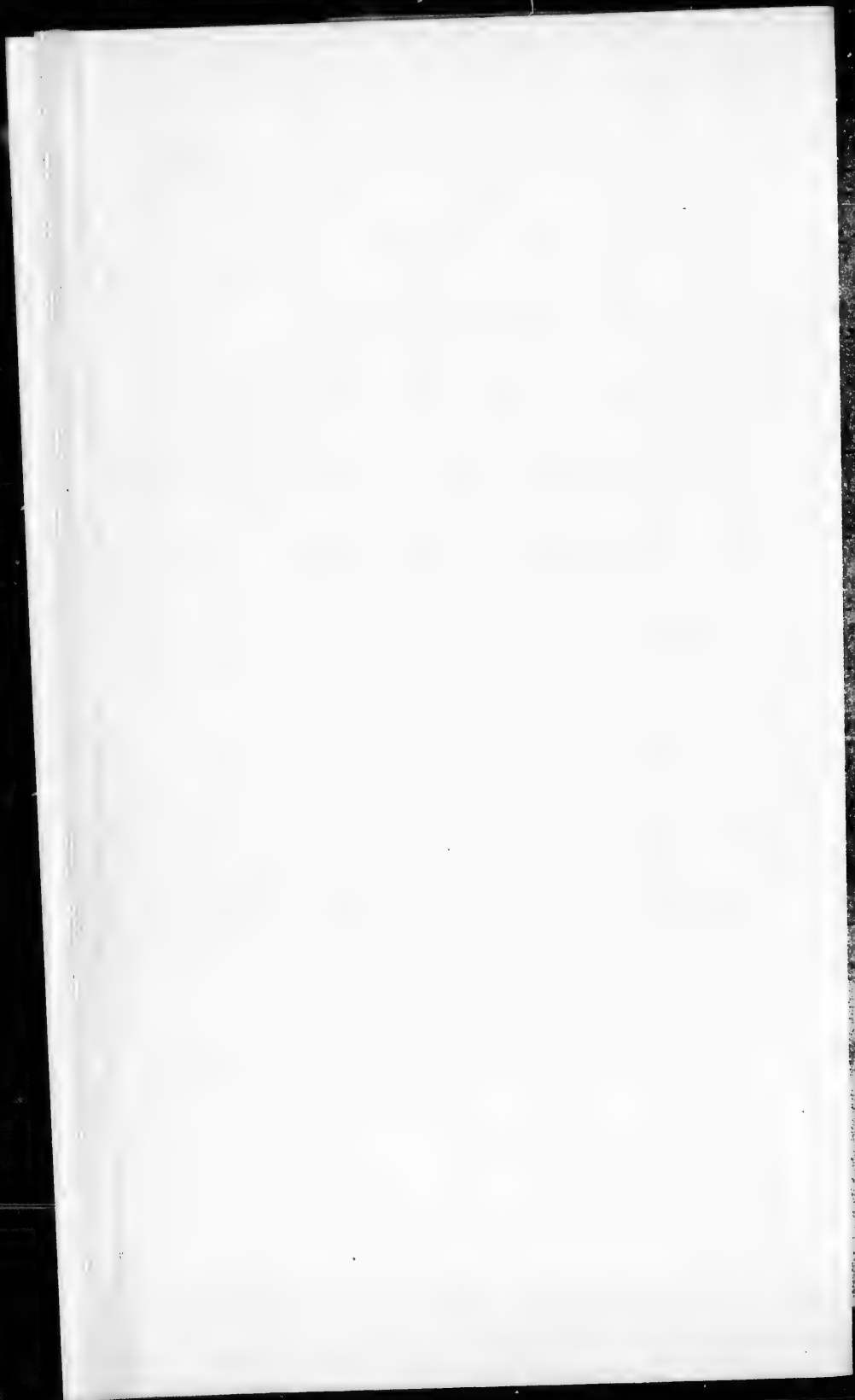
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19. Describe the nature of these two services.
 20. Describe the process by which the vassal's tenure, at first precarious, became, by degrees, more permanent.
 21. What was the effect of a grant of a feud to a man and his sons?
 22. Show the difference between such a grant and a grant to a man and his heirs.
 23. Did feuds originally descend to all the sons, or to the eldest, in exclusion of the others?
 24. Trace the introduction of primogeniture in the descent of feuds.
 25. Had the feudatory originally any power of alienation either during his lifetime or by devise? What reason was assigned for this?
 26. Could the lord originally transfer his seignory?
 27. Distinguish between proper and improper feuds.
 28. Trace the origin of improper feuds.
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CHAPTER VI.

1. Distinguish between *lord paramount, mesne lord, tenants paravail, tenants in capite*.
2. Mention the various classes of services which were rendered by feudatories.
3. Describe *free, base, certain and uncertain services*.
4. Mention the four kinds of lay tenure which subsisted till the middle of the seventeenth century, and three of which remain in England to this day.
5. Define *frank-tenement*.
6. Upon what two kinds of service were frank-tenements held?
7. Define *villienage*.
8. What were the two varieties of villienage?

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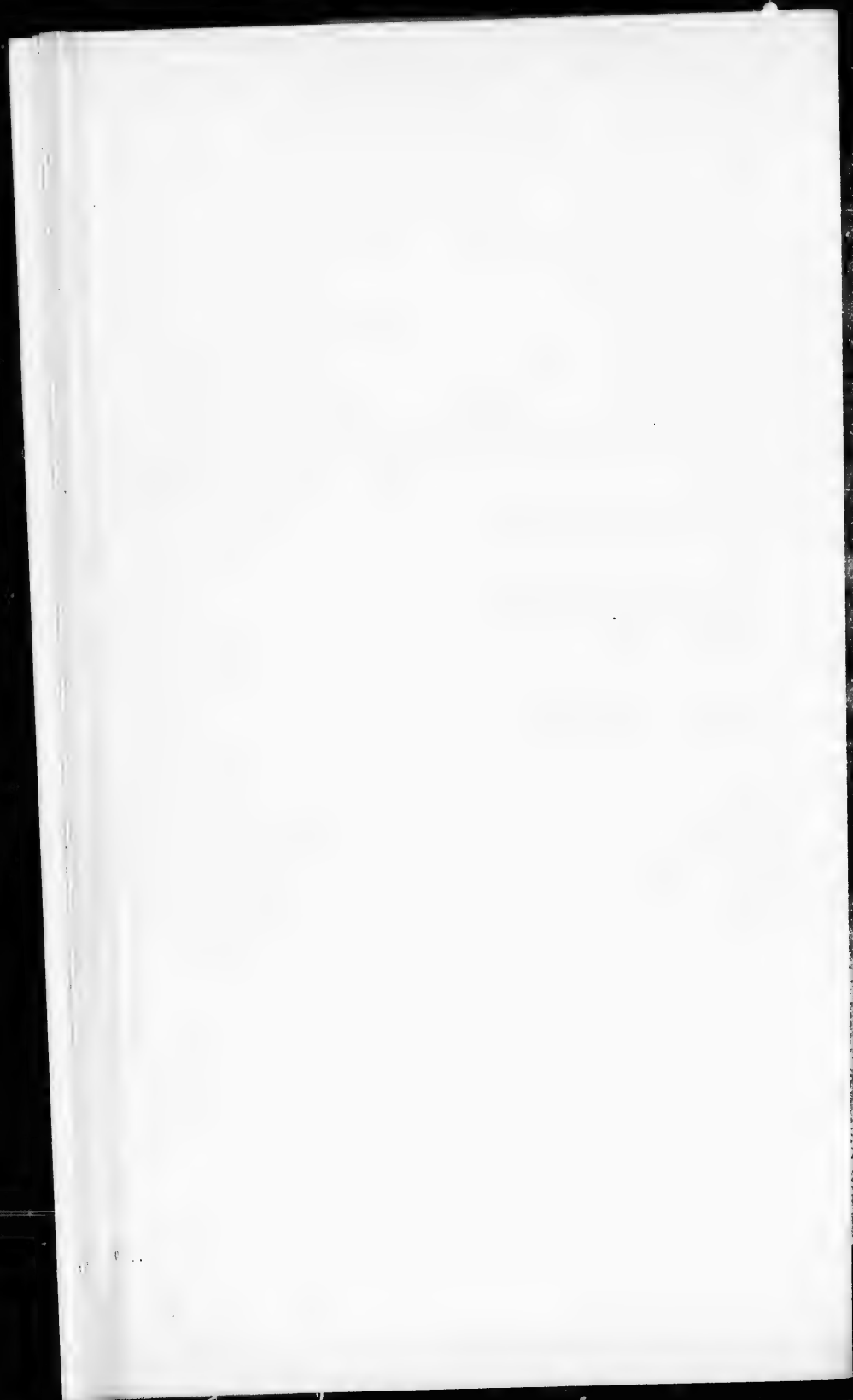
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9. Define *knight-service*.
10. Define *free socage*.
11. Define *purum villienagium*.
12. Define *villienagium privilegiatum*.
13. What were the duties pertaining to the tenure by knight-service?
14. What were the seven fruits, or incidents, of the tenure by knight-service?
15. Define *aids*.
16. Define *premier seizin*.
17. Define right of wardship.
18. Define the right of marriage, as an incident of knight-service.
19. Define *finés*.



20. What do you understand by atornment?
 21. Define escheat. Give two instances arising from different causes.
 22. Describe the tenure by *grand sergeanty*, *per magnum servitium*.
 23. What was the tenure by *escuage*?
 24. At what period does it first make its appearance in English history?
 25. Mention the causes of its introduction, and development.
 26. What statute is there which, with regard to property, may be said to have been a greater acquisition than the Great Charter?
 27. What was the effect of that statute—the statute of Wards and Liveries?
 28. In whose reign was it passed?
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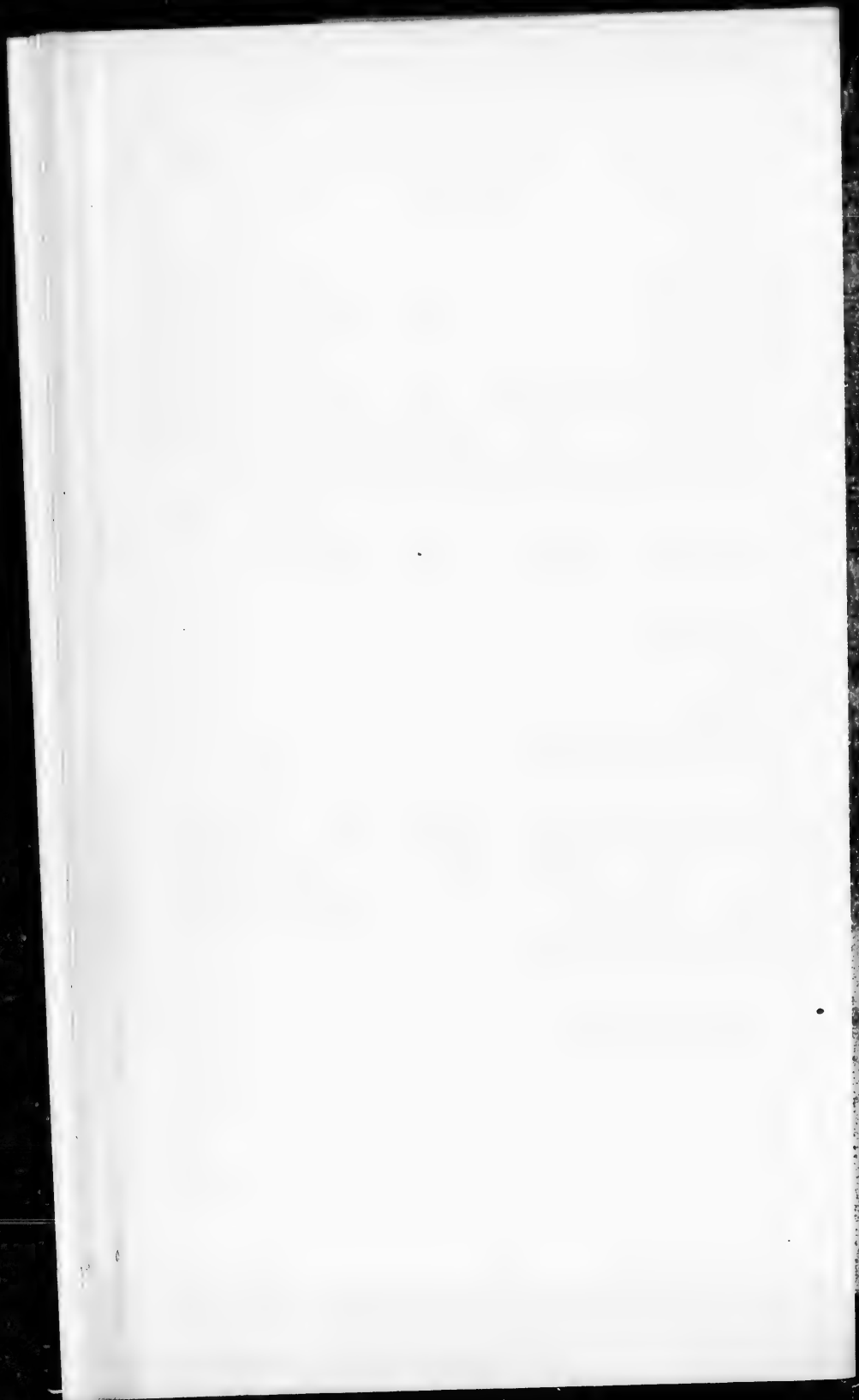
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CHAPTER VII.

1. What Provincial legislation is there as to the tenure of land?
2. To what original may the socage tenures be traced?
3. Define *petit sergeanty*.
4. Define tenure in *burgage*.
5. What do you understand by *Borough English*?
6. What were the principal characteristics of *gavel-kind*?
7. Mention some points of similarity, and contrast, between the socage tenures and tenures in chivalry.
8. To which of the ancient tenures does *copyhold* owe its origin? Trace its development.
9. Describe the constitution of a manor.



10. Explain how it is that there can be no manors in Canada.
 11. What is the date of the statute *Quia Emptores*?
 12. What is the effect of the statute *Quia Emptores*?
 13. What was *folk-land*?
 14. Distinguish between villiens *regardant* and villiens *in gross*.
 15. What was the position or *status* of villiens as regards their persons and property?
 16. What are the two main principles of the tenure by copy of the court-roll?
 17. What is the only tenure of land existing in Ontario?
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CHAPTER VIII.

1. What do you understand by an *estate* in lands ?
2. Mention the usual classes into which estates are divided.
3. Describe a freehold estate.
4. Into what two classes are freehold estates divided ?
5. Give the sub-divisions of one of these classes.
6. Distinguish between land held *in dominico suo* and land held in fee.
7. Express, in legal phraseology, the highest estate which any subject can have in lands.
8. Give the variation of the expression, as applicable to corporeal, and incorporeal hereditaments, respectively.
9. What estate would pass upon a grant to A. and his heirs forever ?
10. What estate passes by a devise to A. ?



11. What estate passes upon a release by one joint-tenant of all his estate and interest to A. ?

12. Is the word *heirs* necessary in, (1) a contract for the sale of land, (2) in a release by the grantee of a rent-charge in fee ?

13. What is the proper word of limitation in a grant to a corporation ?

14. Is any word of limitation necessary in the case of a grant to the Queen ?

15. Of what two kinds are limited fees ?

16. Define a base or qualified fee, as the term was originally understood.

17. Give an example of a base or qualified fee.

18. What is now understood by the term *base-fee* ?

19. What was a conditional fee at the Common Law ?

20. Why was it called a *conditional* fee ?

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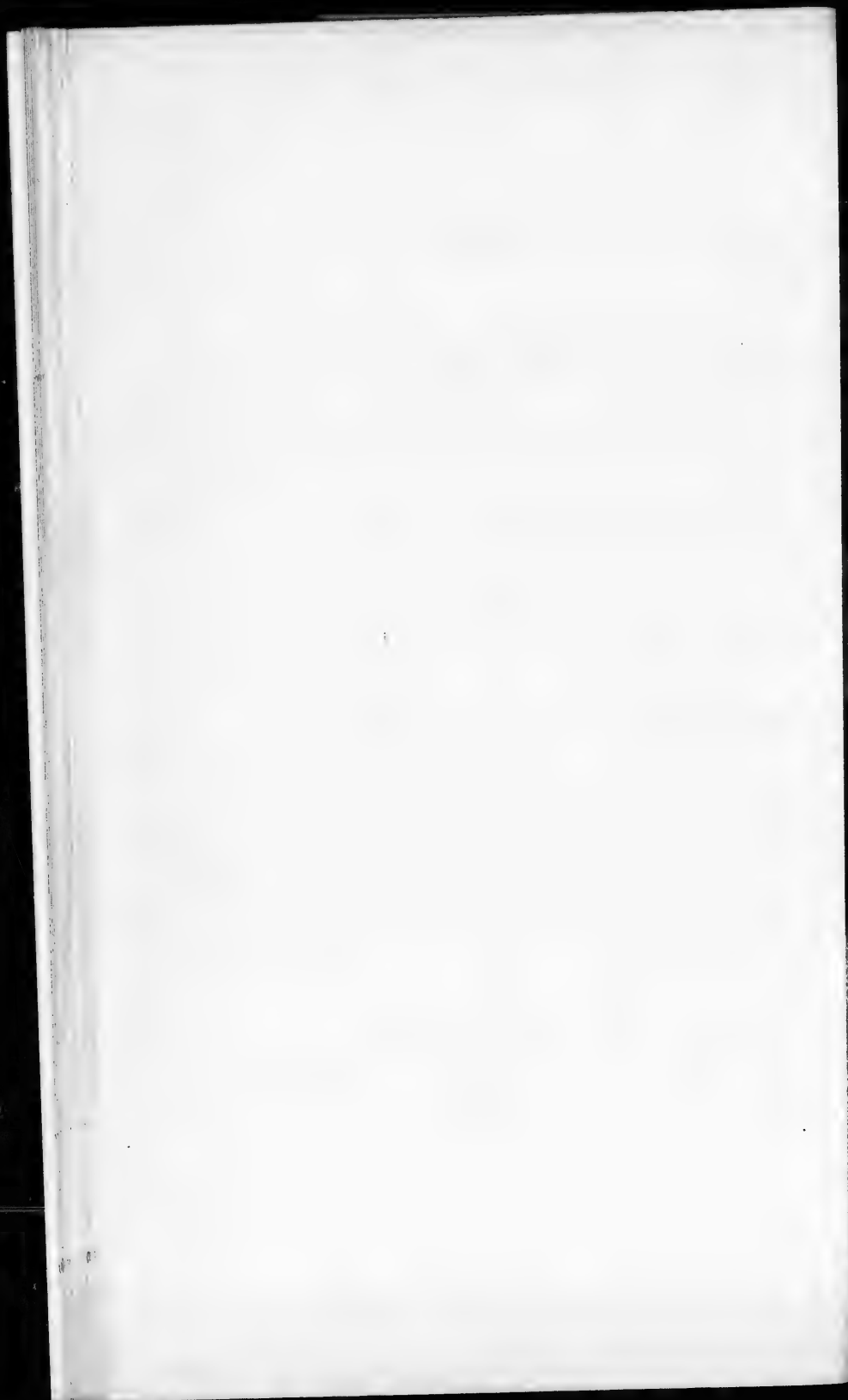
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21. In what way might such conditional fees become absolute?
22. Should issue be born and die, and then the grantee should also die, in whom would the property vest?
23. In what reign was the Statute *De Donis* passed?
24. What was the effect of the Statute *De Donis*?
25. To what new estate did this Statute give rise? Explain the transformation.
26. What things may and what may not be entailed?
27. May, (1) a term of years, (2) an office, (3) a right common, (4) an annuity, be entailed?
28. What estate will vest upon a grant of chattels to A. and the heirs of his body?
29. What are the several species of estates-tail?
30. Distinguish between estates-tail general, and estates-tail special.



31. Give an example of each kind.
 32. What words of limitation are necessary to the creation of an estate-tail?
 33. What estate will pass upon, (1) a grant to A. and his offspring, (2) a grant to A. and his children, (3) a grant to A. and his heirs male, (4) a devise to A. and his seed?
 34. What is the right of a tenant in tail in respect of waste?
 35. May Equity in any case interfere with the commission of waste by a tenant in tail?
 36. Is a widow dowable out of an entailed estate?
 37. Is a widower entitled to an estate by the curtesy out of an entailed estate?
 38. What were the principles laid down in *Taltarum's* case?
 39. Mention some Statutes which tended to strip estates-tail of their privileges.
 40. State shortly the effect of the Provincial Statute with reference to the barring of estates-tail.
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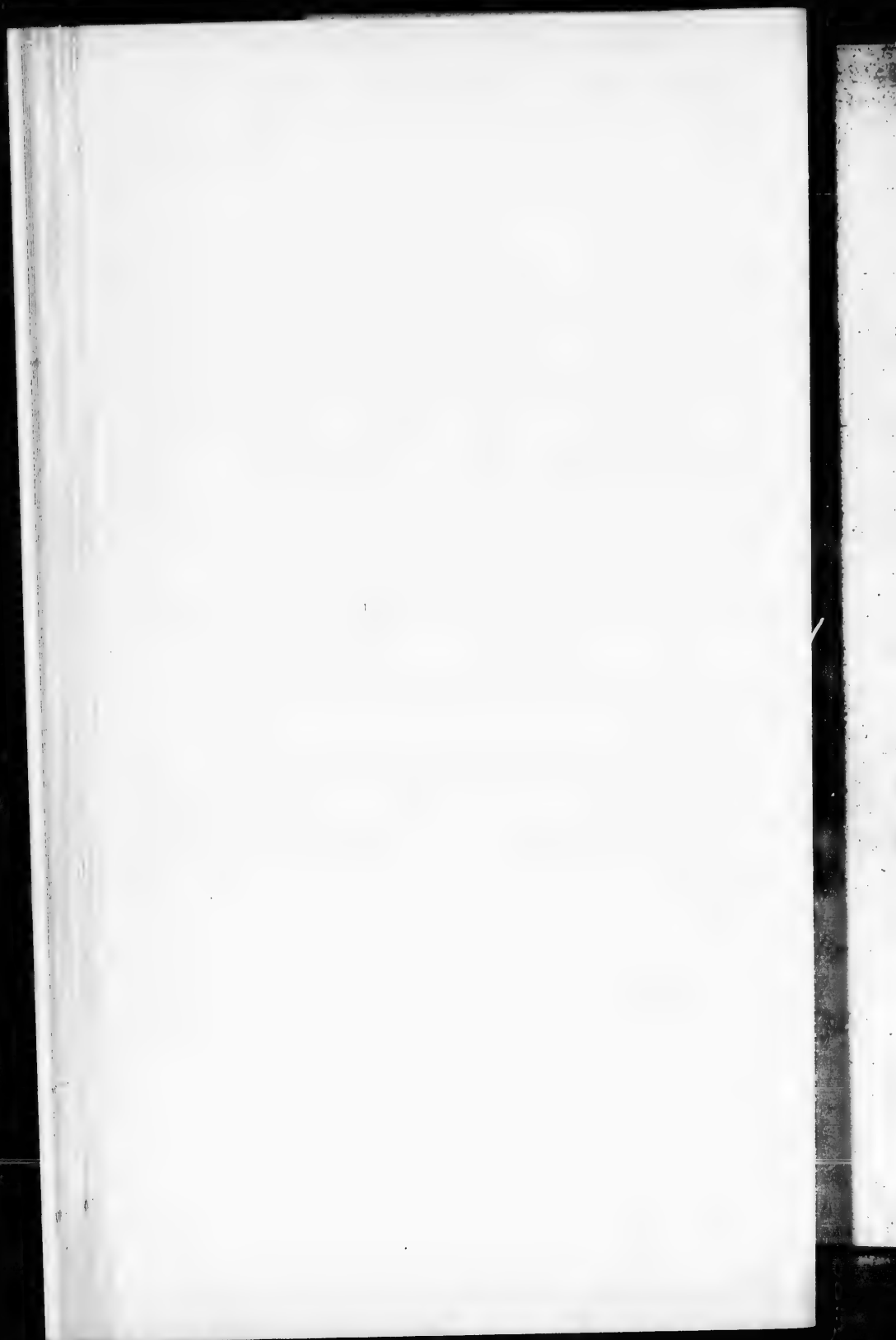
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CHAPTER IX.

1. Distinguish between conventional, and legal, life estates.
2. What is a tenant *pur autre vie*?
3. What estate passes by a grant of the manor of Dale to A. B.?
4. A. grants to B. an estate for life. Will the estate endure for the life of A. or of B.?
5. Is an estate during widowhood a freehold estate or an estate for years?
6. What is the significance of the term *natural life* in a conveyance?
7. Mention the principal incidents of an estate for life.
8. What do you understand by a tenant's right to *estovers* or *botes*?
9. To what extent may estovers or botes be taken by a tenant for life?



10. What is the signification of the term *emblements*?
11. Under what circumstances may emblements be taken in case of a tenancy for life?
12. Illustrate the maxim *actus Dei nemini facit injuriam*.
13. Give an example of a right to emblements where the tenancy was determined by the act of the law.
14. A tenant during widowhood marries. Is she entitled to emblements?
15. Does the right to emblements include the right to take the fruit of trees, grass, and corn? Give the reason for your answer.
16. In what way are under-tenants more favourably viewed than original lessees, in respect to right to emblements? Give an example.
17. A tenant for life, after leasing to another, dies between two quarter days. Who is entitled to rent for the expired portion of the quarter?
18. Give an example of a tenant for life of the legal kind.
19. What do you understand by tenant in tail after possibility of issue extinct? Give an example.

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20. Define tenancy by the curtesy.
21. What was the effect of the Con. Stat. relative to estates by curtesy?
22. What was the effect of the Statute 35 Vic. cap. 16?
23. What are the four requisites to tenancy by the curtesy?
24. Can a man have an estate by curtesy in a remainder?
25. Can there be an estate by curtesy in an advowson?
26. A woman is tenant in tail male, and dies, leaving one daughter. Is her husband entitled to dower?
27. Distinguish between tenant by the curtesy *initiate* and *consummate*.
28. May curtesy be had out of an equitable estate?
29. Define dower.



30. What is the principle exception to the rule that a marriage which is good in the country where it is celebrated is good everywhere?

31. Distinguish between void and voidable marriages.

32. Under what circumstances may issue of a marriage be legitimate *de facto* and not *de jure*?

33. By what acts of conduct may a wife forfeit her right to dower?

34. Out of what lands may a woman be endowed?

35. What Provincial Statute is there which adds an exception to the rule that a widow is entitled to dower out of all lands of which her husband died seised?

36. What is the nature of the seisin necessary to entitle to dower?

37. Does the fact that the right of the husband to recover land of which he was at one time seised has been barred by the Statute of Limitations disentitle his widow to dower out of the same lands?

38. Is a widow entitled to dower out of trust estates?

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39. Is a widow entitled to dower out of a reversion or remainder?

40. What was the old form of a conveyance to uses to bar dower? Explain its operation.

41. A husband, prior to marriage, leased land of which he was seised in fee. During the term, he died. Is his widow entitled to dower? Explain her position.

42. Illustrate the rule that a transitory seisin in the husband will not suffice to give dower.

43. A husband purchased land, paying part cash and giving a mortgage for the balance. Shortly afterwards, he died. Explain his widow's position in respect of dower.

44. A husband desires to purchase land, and gives a mortgage upon it, to secure part of the purchase money; but his wife refuses to join in the mortgage to bar dower. How can his object be accomplished without her concurrence?

45. A firm owns a mill and water privilege. One partner dies. Is his widow dowable out of the property? Give your reason.



46. A man contracts to sell land. Afterwards, and prior to conveyance, he marries and dies. Is his widow entitled to dower out of the property agreed to be sold, or has she any rights in respect of either the property or the purchase money?

47. A mortgage being long overdue, the estate of the mortgagee has become absolute at law, and so remains until his death. Is his widow entitled to dower?

48. Is the widow of a joint tenant, or tenant in common, entitled to dower?

49. Out of what lands is a widow entitled to dower, in case her husband had exchanged some lands for others?

50. Under what circumstances is a widow entitled to dower out of equitable estates?

51. A wife, for the purpose of barring dower, joins in a mortgage made by her husband. After his death, the heirs redeem the property. Is the widow entitled to dower?

52. A man contracts to purchase real estate, but, prior to conveyance, he dies. Is the widow entitled to dower? Explain her position.

53. May a widow in any case be dowable out of property which at law is deemed personal estate? Give an example.

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54. May a husband be entitled to an estate by the courtesy in respect of similar property?
55. What is the position of a tenant in dower in respect of waste?
56. What is a jointure? Give its definition.
57. What was the origin of jointures?
58. What provision is contained in the Statute of Uses relative to jointures?
59. What are the requisites of a jointure?
60. What do you understand by a bar of dower by ante-nuptial settlement?
61. Can an infant be barred of her dower by ante-nuptial settlement?
62. Distinguish clearly between bar of dower by jointure and ante-nuptial settlement.
63. What do you understand by a bar of dower by election?



64. By a will an annuity is given to the wife of the testator. Will this be sufficient to put her to election between her dower and the gift?

65. Within what period after the death of her husband must a widow bring her action for dower?

66. A husband dies entitled to a right of action in respect of certain land. Within what time must his widow bring her action for dower?

67. What arrears of dower may be recovered in an action of dower?

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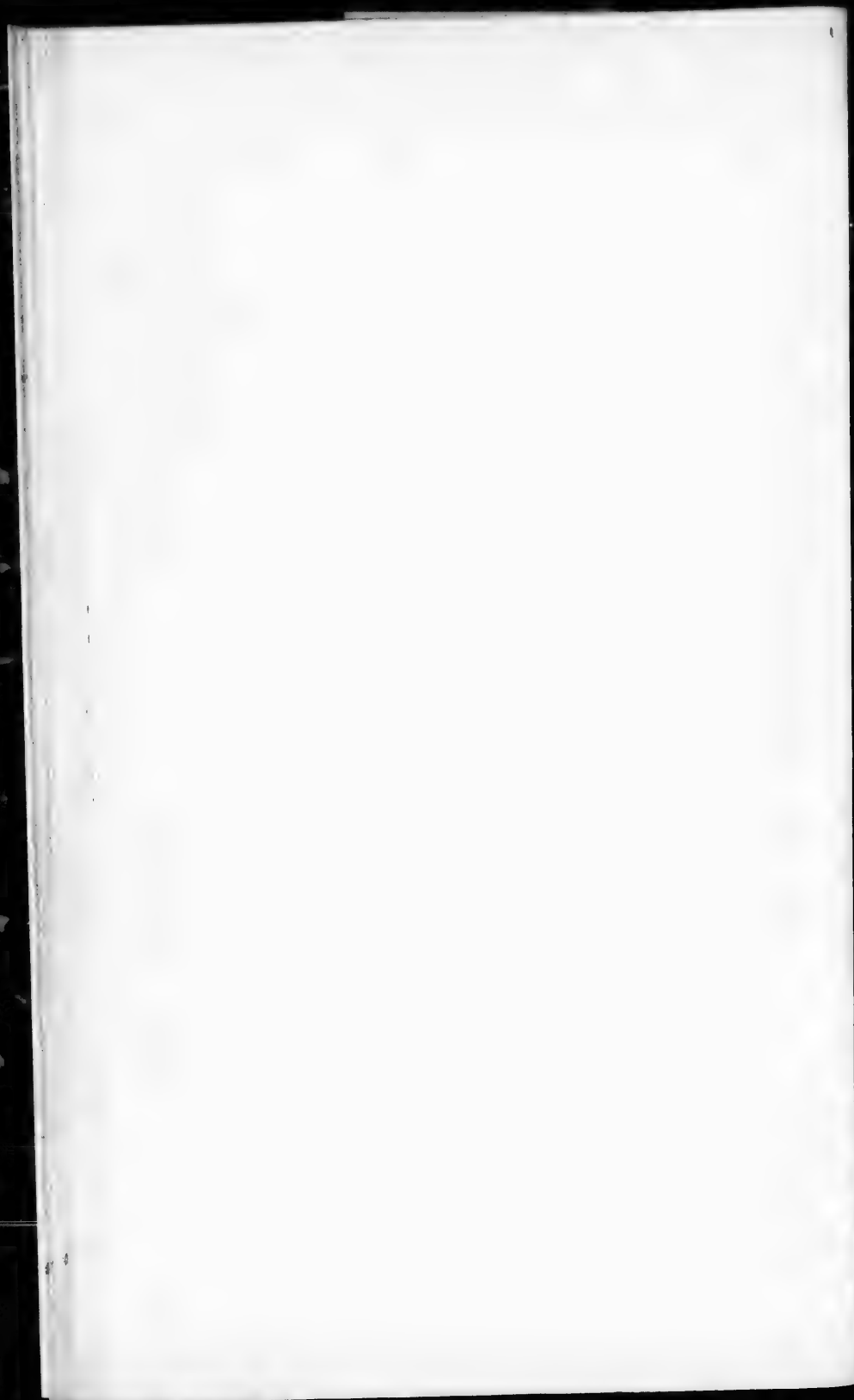
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CHAPTER X.

1. What is the meaning of the word *month* in law?
2. What statutory declaration is there as to the meaning of the word *month*?
3. What construction will be placed upon the word *month* occurring in a lease or mortgage?
4. On what day will a writ of execution, which issued at four o'clock on the first of January, cease to have force?
5. Of what duration—maximum and minimum—is an estate in years?
6. Is a lease for so many years as A. B. shall name objectionable on the score of uncertainty?
7. Is a lease for twenty years, if A. B. should so long live, a good lease?
8. What is the reason that an estate for years may be made to commence *in futuro*, while an estate for life may not—at all events, by Common Law conveyance?



9. In what way may an estate of freehold be made to commence *in futuro*?
10. What is an *interesse termini*?
11. Explain the difference between tenants for life and tenants for years in respect of emblements.
12. What do you understand by chattels real?
13. What is an estate at will?
14. What is the position of a tenant at will with regard to emblements?
15. Mention some acts which will be held to be a sufficient declaration of the determination of the *will* of the landlord or tenant.
16. What is the test as to whether an act done by the landlord is a determination of his *will*?
17. Rent is payable quarterly in respect of a tenancy at will. In the middle of a quarter, the tenant determines the lease. What rent must he pay?
18. Should the lessor in such case determine the tenancy, what rent could he collect?

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19. What notice is sufficient to determine a tenancy from year to year?

20. A landlord gives a tenant notice that after a named period he must leave or pay double rent. Can the notice be enforced?

21. What circumstances will induce the Courts to declare a tenancy to be a tenancy from year to year, rather than an estate at will?

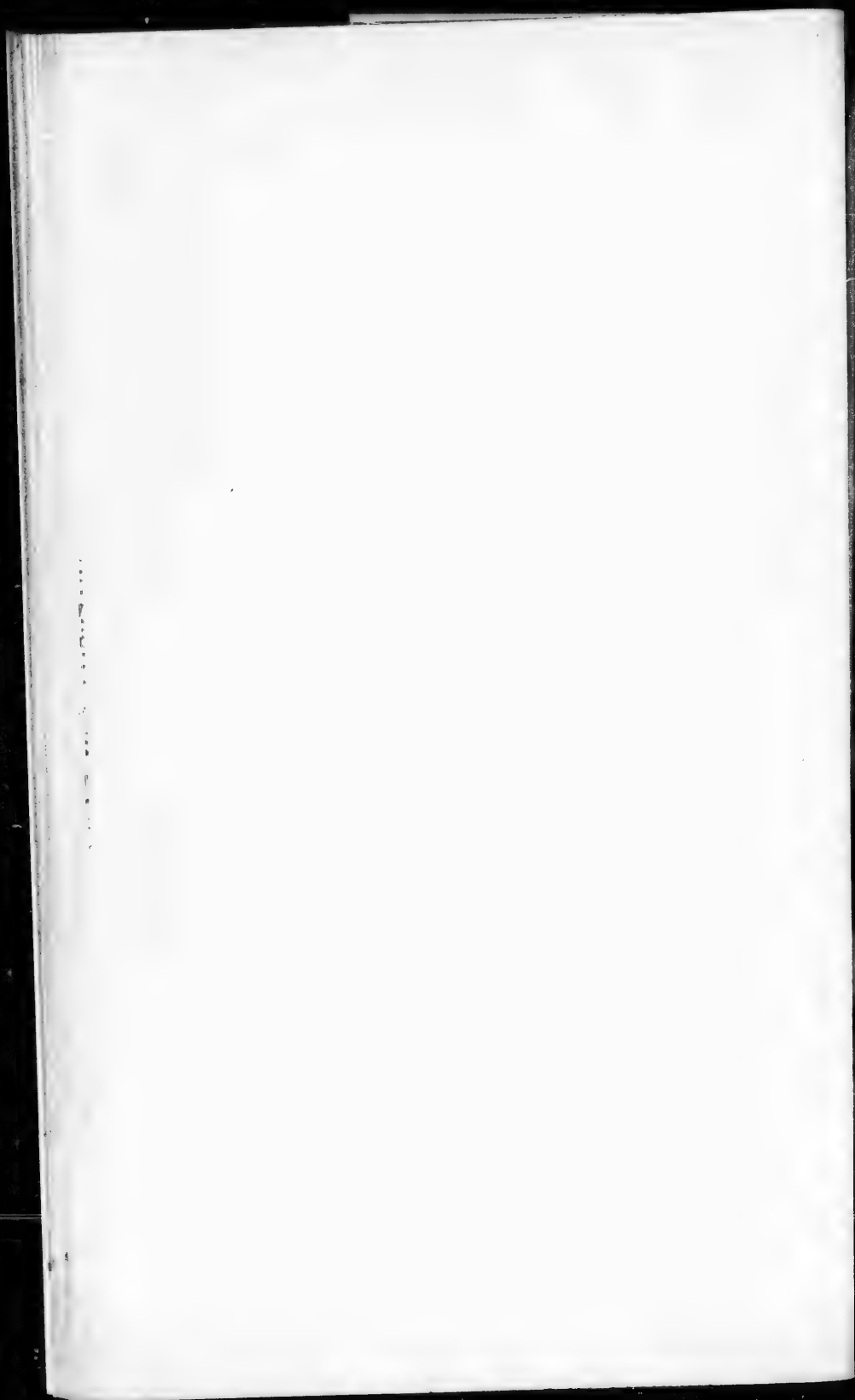
22. A verbally agrees to lease to B. certain property for a term of ten years. No lease is executed, but B. takes possession, and pays rent quarterly, as provided by the lease. What estate has B?

23. It was a term in the last preceding question that A. should have the right of re-entry on non-payment of rent. No lease having been executed, will A. have that right? Explain.

24. Define an estate at *sufferance*.

25. Is a notice to quit necessary prior to instituting proceedings in ejectment against (1) a tenant at will, (2) a tenant at sufferance?

26. Is a tenant at sufferance entitled to emblements?



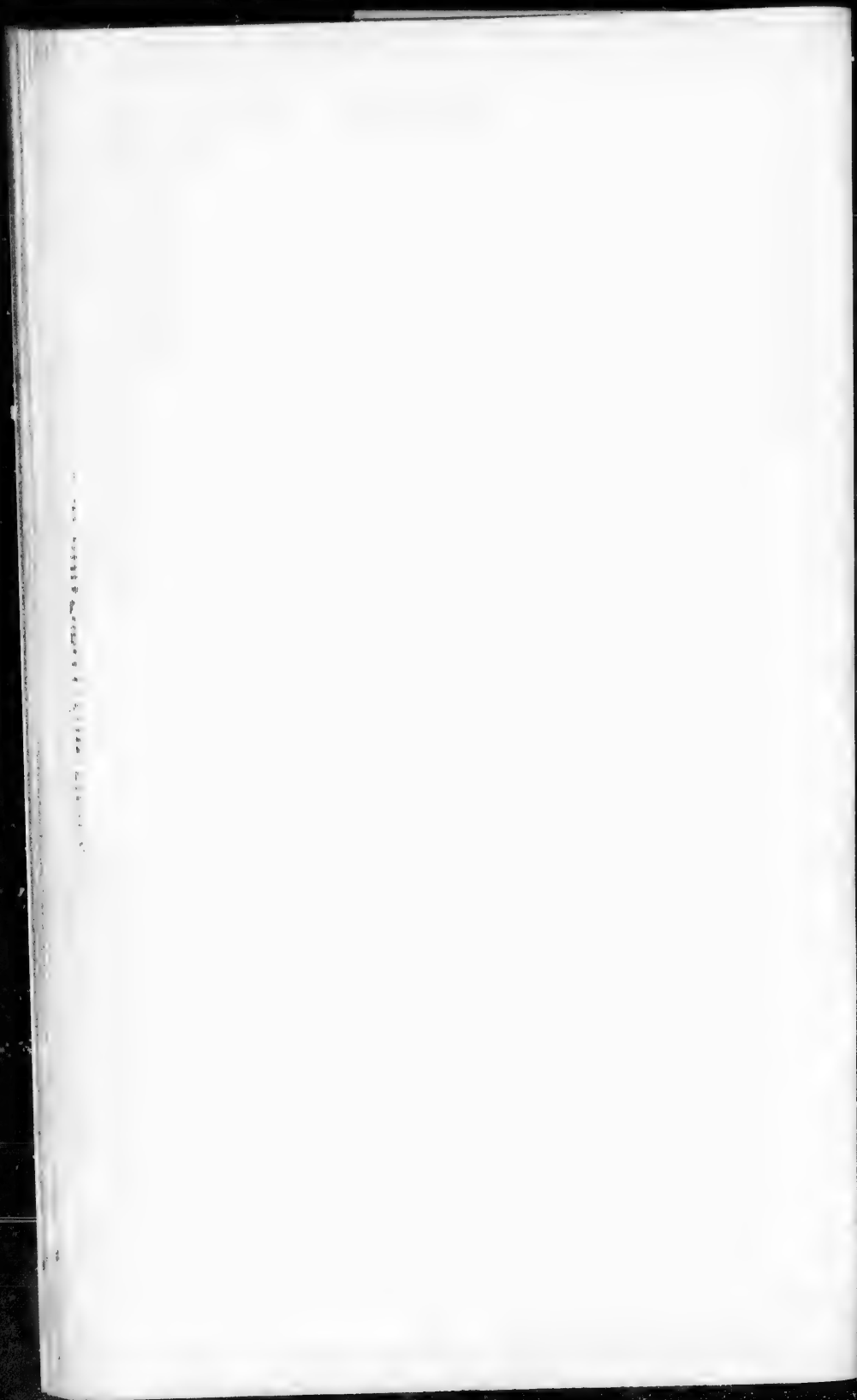
27. Under what circumstances may a plaintiff in ejectment recover *mesne* profits? State the procedure necessary.
28. What liability is incurred by a tenant who holds the estate after notice to quit?
29. What liability is incurred by a tenant who gives notice of his intention to quit and holds over?
30. Under what circumstances may a defendant in ejectment be compelled to give security for costs?
31. Under what circumstances may the owner of land take summary proceedings to obtain possession?
32. Describe the procedure.
33. May a landlord, as a matter of right, re-enter upon the premises demised, in case of default in payment of rent?
34. What formalities must be observed upon proceeding to work a forfeiture of a term for non-payment of rent?
35. What is the effect of the statutory provision obviating the necessity of a demand?

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36. Under what circumstances may a lease be forfeited for non-payment of rent where there is in the lease no provision for forfeiture and re-entry?

37. What is the law as to the right of the landlord forcibly to oust an overholding tenant?



CHAPTER XI.

1. How may an office be forfeited?
2. Give some instances of estates upon condition implied in law.
3. What do you understand by the phrase "convey an estate by wrong."
4. Give examples of an estate upon condition precedent and upon condition subsequent.
5. What is the nature of the estate which passes by the grant of an annuity to a man and the heirs of his body?
6. Distinguish between a condition in deed and a limitation.
7. What was the rule at common law as to the reservation of rights of re-entry, and the assignment of such rights?
8. What was the provision made by the Statute of Henry VIII. relative to such rights of re-entry? and what is the effect of the Revised Statute?

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9. What is the law (1) as to conditions impossible at the time of their creation, (2) conditions which afterwards become impossible by the act of God, (3) conditions contrary to law, (4) conditions repugnant to the estate granted?

10. Will it make any difference whether such conditions are precedent or subsequent?

11. Distinguish between *virum vadium* and *motuum vadium*.

12. What are the respective rights of mortgagor and mortgagee as to (1) possession of the land, (2) ownership of it after default in payment?

13. Within what time must a mortgagor exercise his equity of redemption?

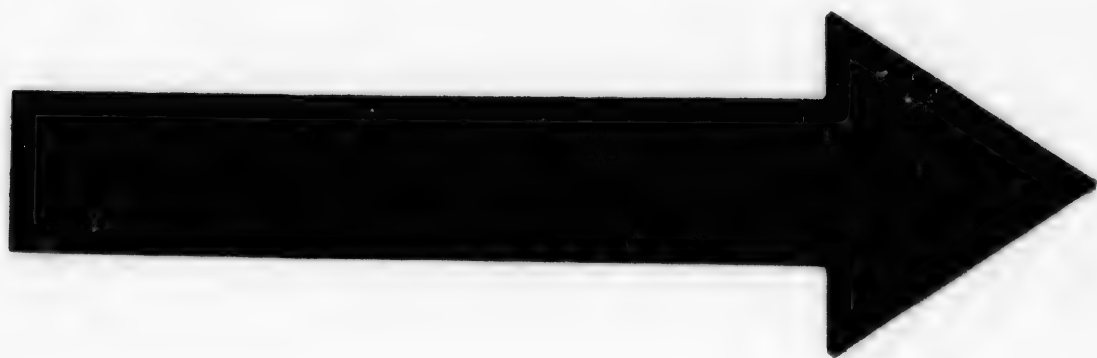
14. What are the various courses which may be taken by a mortgagee upon default being made in payment?

15. What equitable jurisdiction can a Court of Law exercise when a mortgagee has brought an action of ejectment for default in payment?

16. What are the usual parts of a mortgage subsequent to the *habendum*?



17. A tenant in tail mortgages the estate, and afterwards redeems. What estate in the land has he?
18. Give shortly the provisions of the Registry Act relative to discharges of mortgages.
19. What is the effect of an executed but unregistered discharge of mortgage?
20. Give briefly the rule as to the liability of a purchaser to see to the application of the purchase money.
21. Has a surviving mortgagee power to receive payment and execute a valid discharge of the mortgage?
22. Can such a mortgagee accept other securities instead of payment in cash?
23. After a mortgagee's death, who can discharge the mortgage?
24. Is there any, and if so, what, limitation to the right of a mortgagee to release any portion of his security upon receiving any portion of the mortgage money? State the principle.
25. Can an executor release a mortgage made to his testator? What is the principle involved, and how is such power limited?



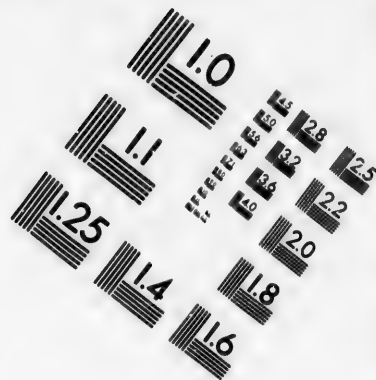
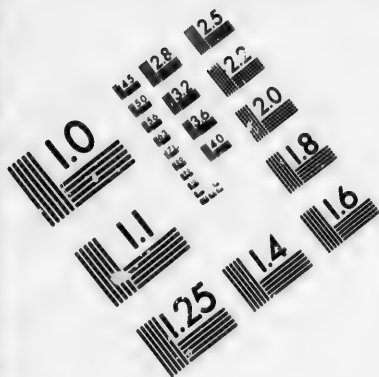
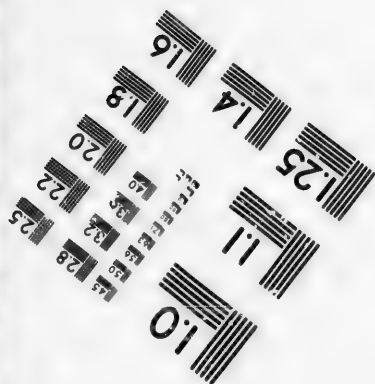
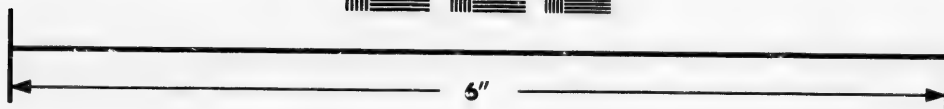
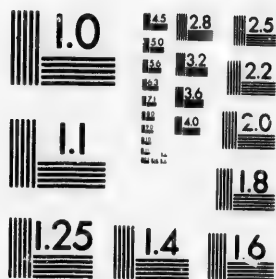


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26. What is the fundamental distinction between a contract for life insurance and a contract for insurance against fire?

27. A mortgagee insures the mortgage premises and receives the insurance money. Can he retain it, or must he give credit for it on the mortgage? Give the effect of any statute of the provision.

28. What is the effect of the statute relative to insurance effected by lessee or mortgagee in pursuance of, but not in conformity with, a covenant?

29. A mortgagee receives insurance money before the mortgage is due. In what way must it be employed? What are the respective rights of mortgagor and mortgagee?

30. What is the general effect of the statute giving to mortgagees a power of sale.

31. A mortgagee sells under a power of sale. The sale is, however, invalid. What is the position of the purchaser?

32. Should the power of sale on a mortgage be given to a mortgagee and his real representatives?

33. Is it necessary that the power should expressly extend to the assignees of the mortgagee, in order that such assignees may exercise the power?

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34. Should the exercise of the power be made conditional on notice given to the mortgagor?
35. What provisions should be made as to the mode of giving such notice?
36. State generally the frame of a power of sale in a mortgage.
37. What are the duties of a mortgagee in connection with the exercise of a power of sale?
38. Can a mortgagee himself purchase at a sale held in pursuance of power?
39. Can a mortgagee buy the estate at a sale for taxes?
40. Will the personal, or real, representatives of a mortgagor be entitled to receive any surplus over the mortgagee's claim which the land may realize?
41. If a right of distress be given to a mortgagee, can he distrain the goods of third persons?
42. What do you understand by an attornment clause in a mortgage?
43. For what reasons is it inadvisable that a mortgagee should take possession of a property.

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44. For what expenditures will a mortgagee in possession be allowed to charge the mortgagor? Can he charge premium of insurance?

45. Can a mortgagee recover interest more than six years over-due?

46. Describe the mode in which interest is calculated when partial payment has been made from time to time.

47. Will a provision in a mortgage, that upon default of payment of the interest, a higher rate shall be paid, be binding? In what way could this object be accomplished?

48. Discuss the question as to the right to possession of the land by the mortgagor and mortgagee, both before and after the time for payment has elapsed, giving the effect of the various provisions more usually found in mortgages.

49. Is it necessary for any purpose that the mortgagee should execute the mortgage?

50. A mortgagor, after executing the mortgage, demises the property for a term of years, and afterwards makes default in payment of the mortgage. State clearly the relative positions of the mortgagee and tenant. In such cases should the tenant pay rent to the mortgagor or mortgagee?

51. What is the position of the mortgagee and the mortgagor under a demise made before the mortgage? In such case should the tenant pay rent to the mortgagee or mortgagor?

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52. What reason is there for requiring the mortgagor to become a party to an assignment of the mortgage?

53. After an assignment of mortgage has been executed or registered, the mortgagor pays money on account of the mortgage to the original mortgagee, having no actual notice of the existence of the assignment, can the assignee compel the mortgagor to pay the amount over again?

54. What covenant can be required from a mortgagee in a conveyance in pursuance of sale under power in his mortgage?

55. Is it advisable to take a mortgage upon leaseholds by way of assignment or by underlease? Explain.

56. If the mortgage is taken by way of underlease, what declaration of trust should be taken from the mortgagor?

57. Is it advisable to insert in a mortgage the statutory short form of sale?

58. Can the words in the short forms of mortgages be altered. If so, what is the effect?

59. Does the Act relating to short forms of mortgages extend to leaseholds?

60. Point out some defects in the form of mortgage given in the Act relating to short forms of mortgages, and more particularly with reference to the power of sale and right of possession.

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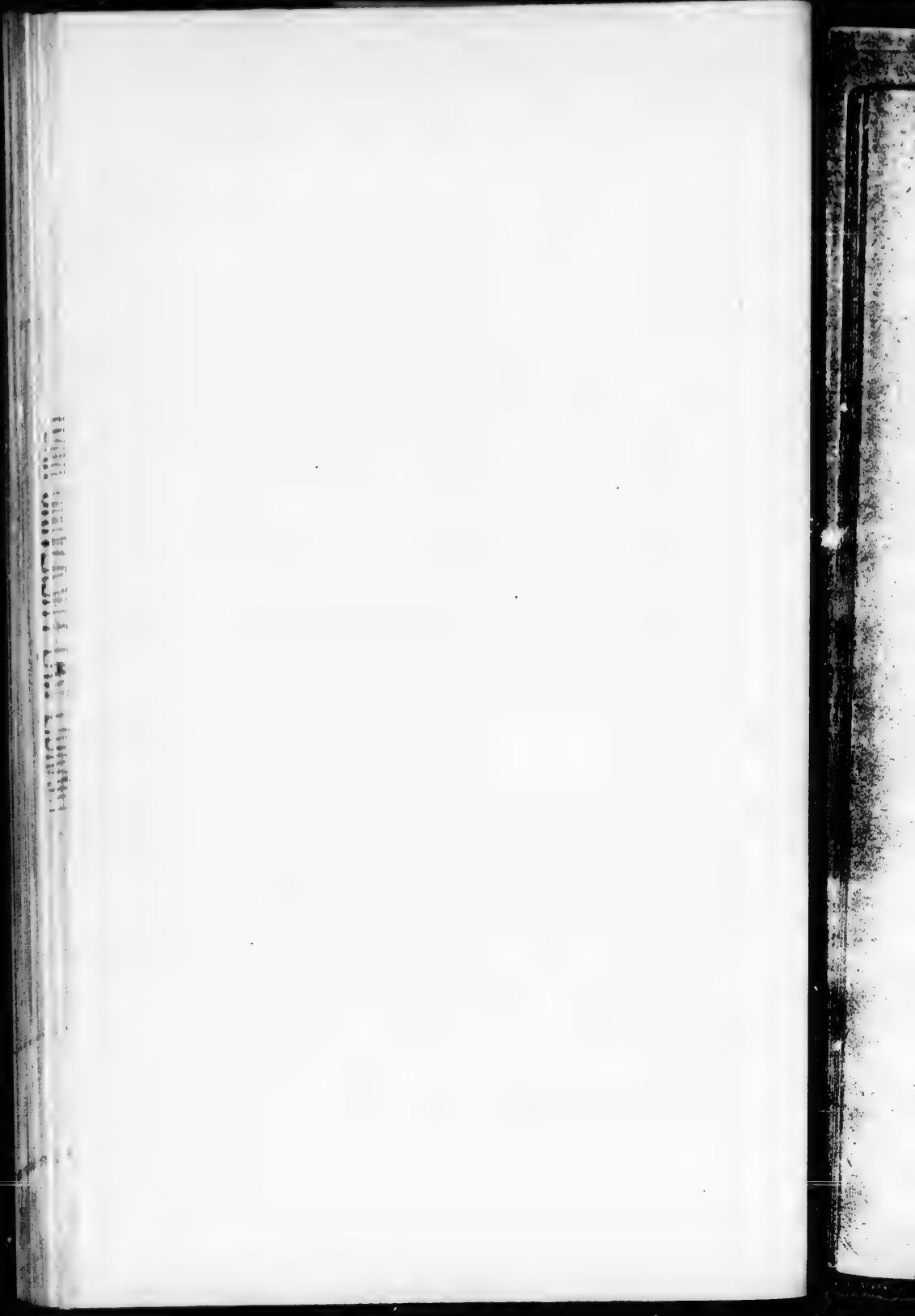
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CHAPTER XII.

1. How may estates be divided with regard to the time of their enjoyment?
2. Distinguish between a remainder and a reversion. Give an example of each.
3. What do you understand by a precedent, or a particular estate, in dealing with estates in expectancy?
4. Can an estate of freehold be made to commence at a future period?
5. What must be the character of a particular estate which will support a remainder?
6. What was the origin of the rule that the remainder must commence or pass out of the grantor at the time of the creation of the particular estate?
7. An estate is limited to A. for life, remainder to the eldest son of B. in tail, and A. dies before B. has a son. What becomes of the estate?
8. Distinguish between vested and contingent remainders. Give an example of each.



9. Will a contingent remainder be defeated by the destruction of the particular estate?
 10. Give the limitations of a *strict settlement*.
 11. What is an executory devise? Distinguish it from a remainder.
 12. What is the effect of the rule against perpetuities?
 13. Were contingent interests assignable at common law?
 14. What power is given by the Statute of Anne to remainder by which they can ascertain as to the life, or death, as to a tenant for life?
 15. What do you understand by merger? Under what circumstance will two estates merge?
 16. An estate-tail meets the reversion in fee. Does merger take place? Give a reason for your answer.
 17. A bill is filed to set aside the sale of a reversionary interest, on the ground of inadequacy of price. On whom does the onus of proof lie?
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CHAPTER XIII.

1. A conveyance of land is made by two persons. Will they take as joint-tenants or tenants in common? Distinguish between a joint-tenancy and a tenancy in common.
2. What are the requisites of a joint-tenancy?
3. An estate in fee is conveyed to a husband and wife. What is the nature of their estate?
4. Can one joint-tenant make a lease of the estate?
5. Can one joint-tenant sue the other in respect of profits of the estate?
6. Under what circumstances can one joint-tenant bring ejectment against the other?
7. In what different ways may a joint-tenancy be severed? Will a devise of one's share by will divest the other of survivorship?
8. One of three joint-tenants aliens his share. What estate is then held by the other two?

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9. What is an estate in co-parcenary?
 10. In what respects does an estate in co-parcenary differ from a joint-tenancy?
 11. Under what circumstances must land given in frank-marriage be brought into hotch-pot?
 12. Can one tenant in common hold in fee simple and the other in fee tail?
 13. What power has one tenant in common to compel a partition or sale of the lands?
 14. One tenant in common is in possession of the whole of the land, and sells timber. Has the other tenant in common a right to charge for occupation rent, or for the timber?
 15. Will the Statutes of Limitations run in favour of one tenant in common, who is in possession of the land, as against his co-tenant?
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CHAPTER XIV.

1. Distinguish between (1) possession, (2) the right of possession, (3) the right of property.

2. Can a right of property now exist apart from a right of possession?



CHAPTER XV.

1. What is the legal signification of the word purchase?
2. The owner of land, which he acquired from his mother by gift, died intestate. What is the former, and what is the present law, as to the descent of the estate?
3. How can a creditor of a deceased person obtain execution against lands which he owned at the time of his death?
4. What was the rule in Shelley's case? Give an example to which the rule would be applicable.
5. What is the meaning of the word conquest as applied to William the Conqueror's invasion of England?
6. What is the difference in effect between the acquisition of an estate by descent, and by purchase?
7. The maternal grandfather of A. devised to him certain land in fee. A. died intestate, seised of land, leaving one brother, and one half-brother, on the paternal side. Who takes the estate?

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8. In what different ways may an estate be acquired?
9. What do you understand by escheat? Upon what principle is it founded?
10. Can a deformed child take land as heir to its father?
11. What are bastards? What is the Latin term for the word?
12. A bastard dies seised of land intestate, leaving a father, a mother and two brothers. Who takes the estate?
13. Is a child in law a bastard if its parents are married after its birth?
14. What was the position of aliens at common law as to taking by descent?
15. What are the necessary incidents of a natural-born subject of the Queen?
16. Give the effect of any Provincial legislation with reference to aliens, and their rights respecting real estate.
17. Distinguish between forfeiture and escheat.

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18. What was, at common law, the doctrine of escheat upon attainder?

19. What was meant at common law by the blood of a person attainted being corrupted, so as to obstruct descent of lands? What was the effect of such obstruction upon the lands?

20. Give the effects of any legislation modifying the common law as to the consequences to the attainder.

21. Give an example in which lands held in fee simple will not escheat, notwithstanding that the owner is no more, and has left no heirs.

22. In what case could there be a reversion expectant on a grant in fee simple.

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CHAPTER XVI.

1. In connection with what class of estates was there a right of occupancy?
2. Distinguish between a special occupant, and a general occupant.
3. Give the effect of Imperial legislation as to title by occupancy.
4. Give the effect of Provincial legislation as to titles by occupancy.

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CHAPTER XVII.

1. Define forfeiture.
2. In what various ways may land be forfeited?
3. For what crimes will lands be forfeited to the Crown?
4. In what way may lands be forfeited by alienation?
5. What do you understand by alienation in mortmain?
6. What is necessary to enable corporations to acquire lands?
7. Describe the means taken by the clergy to avoid the laws relating to mortmain.
8. Relate the mode by which the religious houses contrived to evade the provision relative to alienation and mortmain, contained in the second of King Henry the Third's Great Charters.
9. Describe the means taken also to evade the Statute of 7 Edward the First.

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10. What was the origin of common recoveries ?
11. What was the effect of the Statute of Westminster relative to the mode of trial in cases of common recoveries ?
12. What distinction was drawn between the possession, and the use, of lands for the purpose of evading the Statutes of Mortmain ?
13. What is the effect of the Statute relative to lands given to superstitious uses ?
14. What is the definition to a gift to superstitious uses ?
15. Is a bequest of money, to pay for masses for the repose of the testator's soul, valid ?
16. Has the Crown power to grant licenses to corporations to purchase lands ?
17. What is the effect of Statute 9 George the Second relative to gifts to charitable uses ?
18. The owner of land conveys it to a corporation which has no license to hold lands. Is the grantor or the Crown entitled to the lands ?
19. Give the effect of any Provincial legislation modifying the Statutes of Mortmain.

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20. What was meant by an estate passing by wrong?
21. Explain how it is, that alienations, by particular tenants, for an estate greater than the law entitles them to grant, will not now operate as a forfeiture?
22. Would a conveyance in fee by a tenant in tail formerly have worked forfeiture?
23. What do you understand by disclaimer as a ground of forfeiture?
24. Under what circumstances would a disclaimer work a forfeiture?
25. Would a verbal disclaimer work a forfeiture?
26. If a tenant defends an action of ejectment by his landlord, would his conduct amount to disclaimer?
27. What do you understand by lapse as a cause for forfeiture?
28. Define waste.
29. What two kinds of waste are there?

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30. A rented house is consumed by fire, what is the test of the tenant's liability to rebuild?

31. A lessee covenanted to repair. The house was destroyed by a storm. Is the tenant bound to rebuild? Must he pay rent pending the reconstruction?

32. Is the conversion of land from woodland to arable punishable as waste?

33. Is the working of mines punishable as waste?

34. What is the proper disposition of the proceeds of timber cut down by a life tenant?

35. What was the former, and what is the present remedy for waste?

36. What do you understand by equitable waste?

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CHAPTER XVIII.

1. What do you understand by attornment?
2. Is attornment now necessary upon a conveyance by the reversioner? Give the effect of any statutory provision.
3. A reversioner conveys to A. Afterwards the tenant pays rent to the reversioner. Can A. require payment to him of the same rent?
4. What was the position of owners of mere rights, or contingencies, in real estate, as to alienation, and what is now their position?
5. Can persons attainted of treason, purchase, hold, or convey lands?
6. Are purchases by idiots or infants void, or only voidable? Distinguish between the terms.
7. Does the law permit a man to plead his own drunkenness, as a ground for avoiding a contract?
8. A lunatic purchases real estate. Can he recover back his money?

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9. An infant purchases real estate and pays the purchase money. He dies while yet under age. Are his heirs entitled to avoid the contract?
10. What was the right of a husband, in respect of his wife's property, at common law?
11. Does a conveyance to a wife, to her separate use, exclude the husband's right as tenant by the courtesy?
12. What was the right of a husband, at common law, in respect of the chattels real of the wife, held by her in her own right?
13. What do you understand by a wife's equity to a settlement?
14. In what way must a conveyance of a wife's estate be now made, where the legal estate is vested in her, otherwise than to her separate use?
15. How could such a conveyance be made, where the wife has the beneficial equitable interest only?
16. Where the legal estate is vested in trustees for the separate use of the wife, and without restraint on alienation, what power of disposition has the wife over the estate?
17. Would the fact of the legal estate being vested in the wife, by conveyance to her separate use, prevent her from making a valid conveyance, without the sanction of her husband?

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18. Must a husband join in the conveyance of an estate belonging to his wife, which the revised statute declares to be her separate estate?

19. What power has a married woman to devise her real estate?

20. Describe shortly the origin, and use of, conveyances.

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CHAPTER XIX.

1. Define a deed.
2. What do you understand by a man being estopped by his deed?
3. What is the meaning of the word indenture?
4. What do you understand by a deedpoll?
5. What are the various parts of a deed?
6. What do you understand by a resulting use? Give an example.
7. Give the wording of the habendum of a conveyance by which A. gives land to B.
8. Distinguish between a good, and a valuable, consideration.
9. Is a deed written upon linen valid?

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10. Give the effect of the first four sections of the Statute of Frauds.
11. Is a parol agreement for a lease for two years valid?
12. What is contained in the premises of a deed?
13. Is a deed, in which a man is called by his wrong name, valid?
14. Can a person, not a party to a deed, take a benefit under it?
15. Would a party to a deed, be bound by his covenant to one not a party to it?
16. What do you understand by a vendor's lien?
17. What is the usual operative word in conveyances in fee?
18. Is the conveyance of all the lands of a grantor, in a particular county, without describing them, a valid conveyance?
19. What do you understand by the rule, that an exception out of a grant must not be repugnant to the grant?

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20. What is the office of the habendum in a conveyance?
21. In the premises of a conveyance, land is granted to A. or his heirs; in the habendum, to A. for life. What estate will A. take?
22. In the premises of a deed, land is granted to A.; in the habendum to him for 21 years. What estate will A. take?
23. In the premises a grant is made to A., and in the habendum to A. for life. What estate will pass?
24. In the premises of a deed, land is granted to A. for life. In the habendum, to A. in fee. What estate will A. take?
25. What was formerly the office of the tenendum? Explain how its usefulness has ceased to exist.
26. What is the reddendum?
27. Can rent be reserved to a stranger to the deed?
28. Is it usual now, in conveying lands, to warrant the title?
29. Is a deed, dated on Sunday, valid, if in reality executed on another day?

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30. Is it necessary that a grantor should both sign, and seal, a deed? Explain.

31. State shortly the history of the execution of deeds, as detailed by Blackstone.

32. What is a sufficient seal to a deed?

33. Is a deed executed by one, of two partners, in the name of both, valid?

34. Was a deed necessary, prior to the Statute of Frauds, for the conveyance of estates in land?

35. Discuss the question as to the necessity for signing a deed?

36. From what time does a deed take effect?

37. By whom can a deed be proved in a court of law?

38. What do you understand by an escrow?

39. Is a witness necessary to the execution of a deed?

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40. What is the effect upon a deed of interlineation after its execution ?
41. A grantor, after execution of a deed, defaces the seal. Will this act avoid the deed ?
42. What is the effect upon the estate in the land of the destruction of a conveyance ?
43. What is the effect of the destruction of a deed upon covenants contained in it ?
44. Plaintiff demised to defendant, for a term not expired, reserving rent. The deed was afterwards cancelled by a mutual consent. In what form of action can the plaintiff, notwithstanding such cancellation, sue for the rent ?
45. Property is conveyed to trustees who wish to decline the trust. What document should they execute ?
46. Distinguish between original, and primary, and relative or secondary estates, and give lists of each.
47. Define a feoffment, and state what was formerly its effect as a conveyance.
48. Give an example of an estate passing by wrong by virtue of a feoffment.
49. What was livery of seisin ?

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50. What was the origin of investitures ?
51. What objects were attained by the introduction of written deeds ?
52. In what cases was livery of seisin necessary to complete a conveyance ?
53. What is an *interesse termini* ?
54. Why could not an estate of freehold be made to commence *in futuro* ?
55. Distinguish between livery in deed, and livery in law.
56. What is implied by the use of the word *give* in a conveyance ?
57. What was meant by saying that corporeal hereditaments lay in livery, while incorporeal hereditaments lay in grant ? What statutory provision is there now upon this subject ?
58. What is the full signification of the word *grant* ?
59. By what test should it be determined in what way an instrument, the operative word of which is *grant*, should be pleaded ?

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60. Is there any statutory declaration as to the signification of the word *grant* ?

61. By a conveyance, for a pecuniary consideration, A. grants, bargains and sells certain land to B. and his heirs, to the use of C. and his heirs. In whom would the legal estate vest ?

62. In such case, would the intention of the parties, if apparent from the instrument, be the test of the position of the legal estate ?

63. Define a lease.

64. What are the proper operative words in a lease ?

65. What jurisdiction has the Court of Chancery as regards leases, and sales, of settled estates ?

66. What power of leasing have trustees of lands for the use of religious societies ?

67. What leases must be in writing ?

68. Must an agreement for a lease be in writing ?

69. What leases must be under seal ?

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70. If a tenant enter under a parol lease for four years, and pays rent, what notice must be given before the lessor can bring ejectment?
71. Could the lessee, in possession, obtain specific performance of the agreement?
72. What is implied from the use of the word *demise*?
73. How does the maxim *expressio facit cessare tacitum*, sometimes apply to the rule as to the signification of the word *demise*?
74. What is an exchange, and what are its requisites?
75. If one party to an exchange be evicted, has he any right as against the other party?
76. How could partition be effected at common law, and how must it now be carried out?
77. What is a release, and what are the operative words used in it?
78. In what different ways may a release operate?
79. What is the necessity for a lessee taking possession of land prior to taking a release from the reversioner?

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80. Is actual possession in such case necessary?
81. Does a release to a tenant by sufferance pass any estate?
82. A. leases land to B. for life, and B. sublets to C. for years. Can C. take a release from A.?
83. Give an example of a lease operating by way of passing a right.
84. Give an example of a lease operating by way of extinguishment?
85. Give an example of a release operating by way of enlarging an estate.
86. Define a confirmation, and give the usual operative words used in it.
87. Distinguish between a surrender and a release.
88. In what way must a surrender be executed?
89. What do you understand by surrender in law? Give an example.

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90. May a surrender be implied from the mere cancellation of the lease?
91. What is the difference between an assignment of a lease and a sublease, with respect to liabilities of the parties after conveyance of the lease?
92. Is a lessor liable in respect of implied covenants after assignment of his reversion?
93. What is meant by saying that implied covenants run with the land?
94. Give the rules governing the liabilities of assignees in respect of express covenants, and give an example of each class of cases.
95. A leases land to B., who covenants to pay rent, to repair, and to plant trees. B. assigns his lease to C. Who is liable to A. in respect of the covenants? Give your reasons.
96. A leases to B., who covenants to pay rent, and to repair, and to plant trees. B. sublets to C. Who is liable to A. in respect of the covenants?
97. What was the effect of the rule, that every condition of re-entry was entire and indivisible? What statutory provision is there on the subject?
98. What is a deed of defeasance?
99. For what purpose was the doctrine of uses first introduced into England?

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100. What kinds of property could, and what could not, be granted to a use?
101. What position did lands held to uses occupy, with reference to descent, disposition by will, estates in dower, or by courtesy, and liability to legal process?
102. State shortly the principal provisions of the Statute of Uses.
103. What is a springing use? Give an example.
104. What is a shifting use? Give an example.
105. What is a resulting use? Give an example.
106. What do you understand by a revocation of uses, and under what circumstances may uses be revoked?
107. What is the reason of the rule, that no use can be limited on a use?
108. A. conveys land to B. and his heirs, to the use of C. and his heirs, to the use of E. and his heirs. In whom is the legal estate?
109. To what classes of estate does the Statute of Uses extend?

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110. Distinguish between the effect of limiting uses on a common law conveyance, and one operating under the Statute of Uses, as to the position of the legal estate.
 111. By a deed of bargain and sale A. conveys lands to B. and his heirs, in trust for C. and his heirs. In whom is the legal estate?
 112. Describe the nature of a conveyance by way of covenant to stand seized.
 113. Describe the operation of a conveyance by way of bargain and sale.
 114. What gave rise to, and what was the effect of, the Statute of Enrolment?
 115. Explain the nature of the doubt as to whether a corporation could convey by deed of bargain or sale.
 116. In what respects is a conveyance, by way of bargain and sale, less useful than a grant?
 117. Explain the operation of a conveyance by way of lease and release.
 118. If the condition of a bond be impossible at the time of making it, or be to do a thing contrary to law, or to do a thing that is *malum in se*, can an action be brought upon the bond?
 119. What is a recognizance?
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CHAPTER XX.

1. To what extent did the right to devise lands exist at Common Law ?
2. Through what device did lands generally become subject to devise ? What was the effect of the Statute of Wills, and in whose reign was it passed ?
3. Give the provisions of the various statutes relative to the execution of wills.
4. If a devisee, or a husband of the devisee, be a witness to a will, is the will valid ?
5. Will lands, which a testator acquires after the date of his will, pass to a residuary devisee ? Explain.
6. What estate will pass by a devise to A.; no words of limitation being used ?
7. What is the necessity for, and what the use, of the attestation clause in a will ?
8. What power has a married woman to make a will ?

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9. Will marriage, or birth of issue, or change of circumstances, revoke a will?
10. Will a residuary devisee be entitled to property included in a lapsed devise?
11. To whom will leaseholds pass, on death of an intestate owner?
12. Will a power of appointment be well exercised by a general devise?
13. What is the statutory construction of the words *die without issue* occurring in a will?
14. If land be devised to A., who is the son of the testator, and heir of his body, and A. dies before the death of testator, who will take the property upon decease of testator?

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CHAPTER XXI.

1. What is a discontinuance?
2. May the owner of land forcibly eject a trespasser?
3. What do you understand by a right of entry being tolled?
4. What do you understand by descent cast? What was its effect upon the rights of persons claiming a title to the land?
5. In what cases formerly could possession be obtained only by writ of right?
6. Give an example in which adverse possession, for six years, would not bar a right of action, for recovery of the land.
7. What are the only real or mixed actions now in existence?
8. In what cases is the doctrine of adverse possession yet important?

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9. Within what time must an action be brought for recovery of land?
10. In what different senses is the word *rent* used in the Provincial Statute of Limitations?
11. What lapse of time will bar the right to recover rent due on the lease?
12. Does the Statute of Limitations run as against the Crown?
13. Within what period must an action be brought to recover land or rent (1) in case of dispossession or discontinuance, (2) on abatement or death, (3) when the right accrued by instrument *inter vivos*, (4) where the right of possession is a future right, (5) when the rent is less than four dollars, and is wrongfully paid to a third party, (6) in cases of tenancy of will, (7) in case of a vendee let into possession under a contract for sale?
14. When will the Statutes of Limitation commence to run, 1) as between a mortgagee and a mortgagor in possession, (2) as between a trustee and his *cestui que trust*?
15. When will a right of entry accrue in case of forfeiture or breach of condition?
16. Will a reversioner be barred, by the Statute of Limitations, in case a trespasser has obtained title by possession as against the tenant for life?

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17. Will the Statute of Limitations run as against an executor or administrator, prior to the grant of probate or letters of administration ?
18. Will the Statute of Limitations run in favour of one tenant in common as against his co-tenant ?
19. What is a sufficient acknowledgment to prevent the operation of the Statute of Limitations ?
20. Does the Statute of Limitations bar the remedy of the former owner, or altogether extinguish his right ?
21. From what period does the Statute of Limitations run in favour of a mortgagee in possession ?
22. A mortgagee in possession wrote to an owner of equity of redemption a letter, in which he said that he saw no use in a proposed meeting, unless some person was ready with the money to pay him off. Is this sufficient acknowledgement ?
23. The owner of land leased it to a tenant, and afterwards mortgaged the land. From what time will the Statute of Limitations run ?
24. For what length of time may arrears of dower be recovered ?
25. The owner of land died in 1870, leaving his heir an infant, whereon a third person took possession. The heir died in 1874, being still under age. Within what time would the owner have to commence an action for recovery of the land ?

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26. A. is tenant for life, with remainder to B. in fee. In 1860 A. conveyed to C. in fee, and C. took possession. A. died in 1870. Within what time would B. have to commence an action for recovery of the land?
27. A., the owner of land, dies in 1870, leaving B. his heir, who is an adult. B. dies in 1875, leaving his heir C., an infant, who attains his majority, 1885. D., a trespasser, took possession in 1871. Within what time would C. have to commence an action for recovery of the land?
28. In what cases will the Court of Chancery prevent the Statute of Limitations being set up to the prejudice of an infant?
29. What will be the effect of the right of a tenant in tail being barred, by the statute, upon the estate of his issue and the remainderman?
30. A tenant in tail conveyed in fee simple, and was afterwards ejected by a process of law. Can the issue in tail bring an action for the recovery of the land?
31. The owner of land conveys to A. for life; remainder to B. in tail; remainder to C. in fee. During the life of A., B. conveys the land to D., in fee, who takes possession and retains for 20 years, being 9 years after the death of B. Can C. maintain an action of ejectment?
32. What is the provision of the statute as to wild lands?
33. What provision is made by the statute in cases of trusts?

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34. Distinguish between property devised, charged with the payment of a legacy, and property devised, with an express trust that a legacy be paid out of it, as regards the Statute of Limitations.

35. Will the lapse of any period, shorter than those prescribed by the statute, disentitle a party to sue?

36. What is meant by usage from time immemorial?

37. What was necessary in order that an existing grant might be presumed?

38. What allegations are necessary in a plea of prescriptive right under a statute?

39. In what case would it be advisable to plead a non-existing grant, instead of a prescriptive right?

40. Define a dominant and a servient tenement.

41. Distinguish between custom and prescription.

42. What property can be claimed by prescription?

43. What persons can claim by prescription?

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44. What can be claimed by a prescription in *que estate*, and what can be claimed by one who prescribes in himself and his ancestors?
45. Mention any peculiarity as to the descent of estates held by prescription.
46. Distinguish between easement and profit *a prendre*.
47. What is the provision of the statute as to profit *a prendre*?
48. What is the provision of the statute as to the mode in which time is to be calculated?
49. What will constitute an interruption in the running of the statute?
50. Define what is meant by enjoyment as of right.
51. What length of time will bar a right of action in respect of a water-course?
52. What length of time will bar a right of action in respect of light?
53. What is the provision of the statute as to disabilities in cases of easements?

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CHAPTER XXII.

1. What is the signification of the expression, the person last seized, with reference to the law of descent?
2. Give examples showing the difference in effect, according as descent is traced, from the person last seized, or the person last entitled.
3. Give the various provisions of the statute as to descent, showing in what cases property will descend *per stirpes*, and in what *per capita*. What provision is there in the Statute of Descent, as to the devolution of estates coming to the intestate, on the part of his father or mother?
4. What is meant by the expression, an estate coming to the intestate, on the part of his mother?
5. If the intestate so acquired an estate, and afterwards conveyed it to a stranger, and forthwith received a reconveyance, would descent be traced from him, as though he had actually purchased the land?
6. Show the difference between the devolution of real estate, and of personal estate, in case the intestate dies leaving a widow and no lenial descendants.
7. An intestate leaves a mother, and brothers, and sisters. On whom will his real, and personal estate, devolve?

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8. An intestate, whose estate came *ex parte paterna*, dies, leaving uncles and aunts. On whom will his real, and personal estate, devolve?
9. What are the provisions of the Statutes of Descent and Distributions as to the position of the half-blood?
10. What is the meaning of the word *ancestor*, as used in the Statute of Descent?
11. Has the Statute of Descent any application to trust estate?
12. What are the provisions of the statute as to advancement?
13. What is the law, as to advancement, under the Statute of Distributions?
14. What is the provision of the statute as to the devolution of an estate in fee simple upon the death of a trustee in whom it was vested?
15. A married woman, possessed of separate personal property, dies intestate. On whom will the property devolve?
16. Detail the principal points of similarity, and contrast, as between the present Statute of Descent, and the Statute of Distributions.
17. By what is the descent of an estate-tail governed?
18. Compare shortly the law of descent, as it existed under the three different periods?

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CHAPTER XXIII.

1. Explain the mode by which an estate tail might have been barred by warranty.
2. Detail the various steps to be taken in levying a fine.
3. What was the force and effect of a fine?
4. Who were the proper persons to levy a fine?
5. Detail the proceedings necessary in suffering a common recovery.
6. What was the necessity in some cases of double or treble vouchees?
7. What was the force and effect of a common recovery?
8. How were uses declared upon a recovery?
9. What tenants in tail are allowed by the Provincial Statutes to bar the entail?

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10. What estates can be barred by a tenant in tail?
11. In what way can a tenant in tail bar the entail?
12. A tenant in tail contracts to sell in fee. Will the Court decree specific performance of this contract?
13. What leases made by a tenant in tail require registration?
14. What provision is made by the statute relative to dispositions for a limited purpose by a tenant in tail?
15. What is a base fee?
16. If the owner of a base fee should require the reversion in fee, what would be the effect upon the estate?
17. Describe the customary manner of preserving property within one family.
18. What do you understand by a protector to the settlement?
19. May there be a protector to the settlement who has no estate in the land?

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20. If a protector to the settlement should convey his estate, who would then be protector to the settlement?
 21. What class of persons is excluded from being protector?
 22. Under what circumstances will the Court of Chancery be the protector to the settlement?
 23. In what way must the consent of the protector to the settlement be evidenced?
 24. Can a protector to a settlement unreasonably withhold his consent?
 25. What is the provision of the statute as to the jurisdiction of the Court of Equity in aiding defective dispositions?
 26. A tenant in tail created a voidable estate in favour of a purchaser upon valuable consideration? What effect would subsequent disposition of the land have upon this estate?
 27. Does the Act as to assurances of estates tail extend to money?
 28. If a tenant in tail should make a lease for life, and such lease should not comply with the reason of the Provincial Statute, might the lease, notwithstanding, be valid? Explain.
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SPECIMEN EXAMINATION PAPERS.

EXAMINATION FOR CERTIFICATE OF FITNESS.

MICHAELMAS TERM, 1876.

LEITH'S BLACKSTONE—TAYLOR ON TITLES.

1. Trace the origin of an estate in fee tail.
2. Give two instances of an estate tail which cannot be barred under our Con. Stat. —
3. Under what circumstances is adultery on the part of the wife a bar to her recovery of dower?
4. Explain how it is that an estate tail does not merge in the fee, when the tenant acquires the reversion.
5. Can there be a reversion expectant upon a grant in fee simple? If nay, give your reason. If yea, give an instance.

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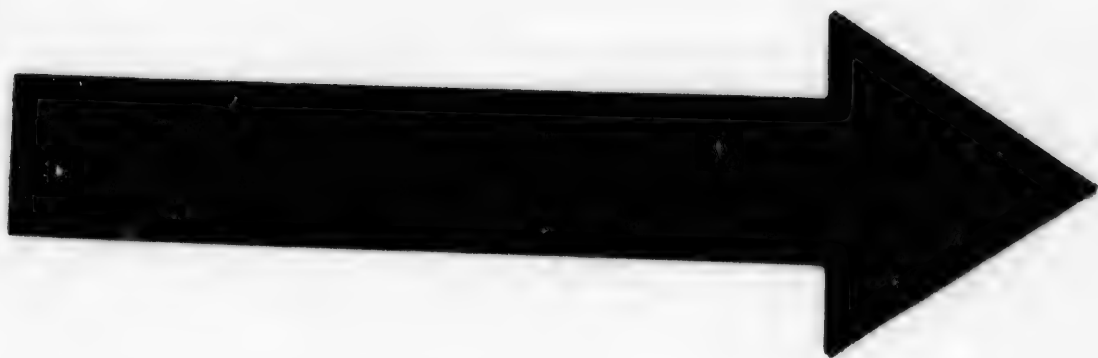
6. What power had a tenant in tail as to leasing prior to our Act as to assurances of estates tail? What power as such a tenant now?

7. What is the rule as to the necessity for giving notice to a mortgagor of an intention to sell under a power of sale in the mortgage where nothing is said as to notice in the power?

8. Where title is derived through a sale by sheriff under *fi. fa.*, what points should be attended to?

9. Of what is a sheriff's deed on sale under *fi. fa. prima facie* evidence?

10. In what cases has the Court of Chancery power to make a vesting order? What is the effect of such an order?



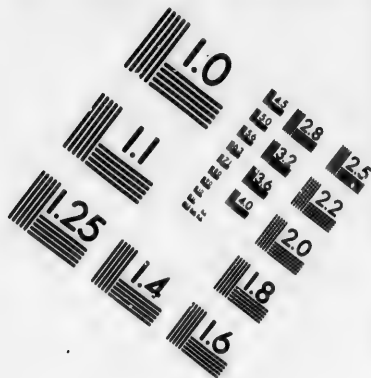
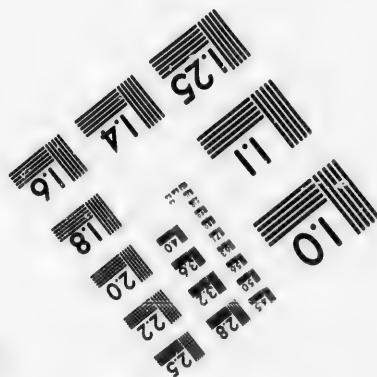
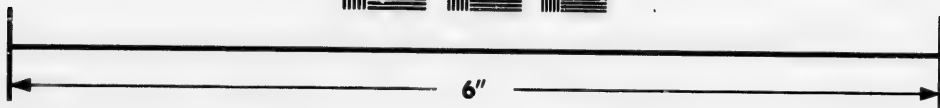
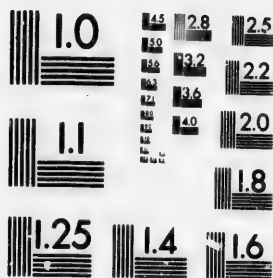


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EXAMINATION FOR CERTIFICATE OF FITNESS.

HILARY TERM, 1877.

LEITH'S BLACKSTONE—TAYLOR ON TITLES.

1. In what ways may colonies be established, or acquired, and what system of laws are to prevail on, and after, such establishment, or acquisition?
2. A. conveys pure personality to B. and the heirs of his body. What is the nature of B.'s tenure, and what power of alienation has he? Explain.
3. What are the rules as to descent to persons of the half blood under the different periods?
4. Is the interest of a *cestui que trust* saleable under execution? If so, under what circumstances, and by what authority?
5. If, after a sale under a *fi. fa.*, the purchaser brings ejectment in order to obtain possession, what proof of his purchase must he give? What circumstance will vary the rule, and to what extent will it vary it?

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6. Describe the mode which formerly existed of levying a fine. What was the object of the proceeding, and what was its force and effect?

7. What is the effect of a conveyance by a tenant in tail for some limited purpose?

8. Under what circumstances can an executor distrain for rent due to the testator in his lifetime?

9. Is seven years' absence, without tidings, evidence of death, between vendor and purchaser, or in an action of ejectment?

10. In cases of pedigree, where under the circumstances there arises a presumption of death, is there any, and if so, what presumption as to marriage, or issue of the person?

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EXAMINATION FOR CERTIFICATE OF FITNESS.

EASTER TERM, 1877.

LEITH'S BLACKSTONE—TAYLOR ON TITLES.

1. Distinguish between a bar of dower by jointure and by ante-nuptial settlement. Are infants bound by either of them? If so, under what circumstances?
2. An estate came by descent *ex parte materna* to A., who died actually seised thereof, unmarried and intestate. A.'s mother predeceased him. How would the estate descend, (1) if A. left no brothers or sisters, (2) if he did leave brothers and sisters?
3. What evidence, before passing a title, should be required, (1) as to executions, (2) as to taxes?
4. What must be shown in order to force a title by possession upon an unwilling purchaser?
5. What provisions are there in the Provincial Statute relating to the limitation of actions and suits as to persons under disability? State them accurately.

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6. A woman at the date of her husband's death is nineteen years of age. Her husband's right to bring an action to recover some real estate accrued during the coverture, and one year before his death. Within what time must the widow bring an action of dower?
7. The assets of a deceased person are insufficient to meet his liabilities. The executor cannot safely distribute the assets because of the existence of a large claim, the validity of which he has good reason to dispute. The other creditors are not pressing. The executor is anxious to wind up the estate. No action has been commenced. What course would you advise the executor to adopt?
8. An executor, in proceeding to administer the estate, is doubtful as to his power to do some act, which would be for the benefit of the estate, and which he should perform, if he has authority. Having consulted you, you are of opinion, that the law upon the point is not sufficiently clear to warrant you in advising him to assume the responsibility of the act. What course would you advise him to adopt? Answer fully.
9. Under what circumstances, is a tenant liable to pay double the yearly value of the premises held of his landlord, and under what circumstances double rent? What are the grounds of such liabilities?
10. What was formerly, and what is now, the law as to the right of the vendor, of a reversionary interest, to have the transaction set aside?

JOHN UNIVERSITY LAW LIBRARY

EXAMINATION FOR CERTIFICATE OF FITNESS.

EASTER TERM: 1878.

LEITH'S BLACKSTONE—REAL PROPERTY
STATUTES.

1. Grant from A. to B. for fifty years, remainder to heirs of C. in fee. Is this a good remainder? Give your reasons?
2. What is the effect of the statutory provisions as to auction sales of real estate?
3. Can one joint tenant bring any actions against his co-joint tenant in respect of the joint estate? If so, for what, and under what circumstances?
4. What do you understand by an estate in coparcenary? Can it now arise? Explain.
5. In what different ways may prescription be pleaded? What must be proved under each plea?

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6. Explain and illustrate the maxim: *Falso demonstratio non nocet.*

7. Discuss the question as to whether it is necessary that a deed should be signed as well as sealed.

8. In what different ways may dower be barred?

9. What are the rules by which it may be determined whether covenants run with the land?

10. What was deemed to be the necessity for the Statute of Enrolments? What was the effect of it? What was substituted for it? Is any analogous statute now in force?

THE UNIVERSITY OF CHICAGO

EXAMINATION FOR CERTIFICATE OF FITNESS.

HILARY TERM, 1878.

LEITH'S BLACKSTONE—TAYLOR ON TITLES.

1. Is there any, and if so, what, provision, by which a landlord may compel a tenant, against whom he is bringing ejectment, to give security for costs?
2. A. dies intestate seised of real estate which was devised to him by his mother, leaving a father, uncles and grandfathers him surviving. To whom will the estate descend (1) under the Statute of William, (2) under the Statute of Victoria.
3. Under what circumstances can a landlord bring ejectment for non-payment of rent?
4. A. leases to B. at a rent of \$20, who sub-leases to C. at a rent of \$100. B. then surrenders to A. Is C. under any, and if so, what liability to A? Give the law as it stood prior to the Consolidated Statutes, and the reason of it.

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5. A tenant in tail wishes to make a lease for twenty years. State the precise steps necessary to make it effectual.
 6. In examining a title, how far back must a search be made for sales for taxes? Give your reason.
 7. What statutory provision is there as to the appointment of new trustees, in case of death of the old trustees?
 8. A tenant in tail is dispossessed of his lands, and dies out of possession without issue, and without having barred the entail. Within what time must an action be brought against the disseisor, to recover possession?
 9. A. has a power of appointment over certain lands. By his will he devises all his real estate to B. Will the land over which he had the power of appointment pass under this devise? Explain.
 10. What statutory provision is there as to the sufficiency of memorials as evidence?
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EXAMINATION FOR CERTIFICATE OF FITNESS.

TRINITY TERM, 1879.

LEITH'S BLACKSTONE—TAYLOR ON TITLES—THE
STATUTES.

1. A. conveys a portion of Blackacre to B., covenanting to produce the title deeds which cover the whole property. B. conveys to C. A. conveys the remainder of Blackacre to D., and delivers to him the title deeds. Who is, or are, liable upon the covenant, and to whom is the liability? What precaution should be taken as against such liability?
2. Under what circumstances can a landlord in an ejectment suit against his tenant compel him to give security for costs?
3. Define and distinguish between a jointure and an equitable bar of dower.
4. What interests in land are saleable under execution?
5. A. and B. are bastards, issue of the same parents. A. dies intestate, without issue in the lifetime of his parents, seised of certain lands. To whom will the lands go?

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6. What were the different species of injury by *ouster*? In which of them was there the remedy by entry, and what was the ground of distinction? In what way has this ground of distinction been affected?
 7. To what extent have the Statutes of Mortmain been amended by Provincial enactments?
 8. Under what circumstances can a husband by a recent statute convey land free from the dower of his wife? What formalities must be observed?
 9. What is the effect of the statutory provision as to memorials as evidence of title?
 10. What is the statutory limitation to the right to bring an action in respect of uncultivated lands?
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5. The purchaser of land dies intestate, leaving a mother and two brothers him surviving. To whom will the land descend under the three periods?
6. What was the decision in Taltarum's case?
7. What is meant by the statute which enacts that no descent cast, discontinuance, or warranty shall toll, or defeat, any right of entry, or action, for the recovery of land? Explain the terms used.
8. Within what time must a will be registered? What is the effect on non-registration?
9. Under what circumstances, and to what extent are recitals in deeds, evidence of the facts recited?
10. What are the provisions of our Real Property Limitation Act, as to the periods within which actions in respect of easements must be brought?

THE UNIVERSITY OF TORONTO

EXAMINATION FOR CERTIFICATE OF FITNESS.

MICHAELMAS TERM, 1880.

LEITH'S BLACKSTONE—REAL PROPERTY
STATUTES.

1. Show clearly the necessity for possession being taken on a conveyance by lease and release, and what kind of possession suffices.
2. Distinguish between corporeal and incorporeal hereditaments as to the mode of their conveyance in former times, and show the termination of the distinction.
3. Give the operative words of a conveyance by which a tenant in tail conveys an estate in fee simple, and that part of the conveyance relating to the consent of the protector of the settlement.
4. The wife of a vendor does not join him in the conveyance. At what period will her right to bring an action for dower cease?

THE UNIVERSITY OF CHICAGO PRESS

EXAMINATION FOR CERTIFICATE OF FITNESS.

MICHAELMAS TERM, 1879.

LEITH'S BLACKSTONE—TAYLOR ON TITLES.

1. What can be claimed by prescription, and what cannot be so claimed?
2. Is a conveyance executed by a person of unsound mind binding upon him? State the position of the law as given by Mr. Leith.
3. Is a tenant at sufferance entitled to emblements? Explain.
4. What are the essential elements of an exchange? Was livery of seisin formerly necessary? Explain.
5. Distinguish between the surrender in law of a term, and its merger.
6. What is the application of the maxim, *Espressum facit cessare tacitum*, to implied covenants in a deed?

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7. Why cannot a power of appointment be engrafted upon a conveyance by way of bargain and sale?
 8. What is a defeasance? Is a condition in a bond an example? Explain.
 9. What is now the rule, in bills, to set aside sales by expectant heirs, as to the onus of proof? Give authority for your answer.
 10. Give shortly, the effect of the recent statute as to sales under mortgages.
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EXAMINATION FOR CERTIFICATE OF FITNESS.

TRINITY TERM, 1879.

LEITH'S BLACKSTONE—REAL PROPERTY
STATUTES.

1. Give the definition of rent. State accurately its essentials.
2. Within what period should a will be registered? What is the effect of non-registration?
3. A remainderman, and a reversioner, die pending the prior estate. From whom will descent be traced?
4. What is the meaning in the Statute of Victoria as to descent, of the words "where the estate shall have come to the intestate, on the part of the father, or mother"?
5. What is the effect of recent legislation as to tenancy by the curtesy?
6. Can an action be maintained upon a bond, the condition of which is to do an act contrary to law, or *malum in se*, or to do something which becomes impossible to be done?

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7. What is the effect of the Statute as to the right of a widow to dower out of improvements, which may have been placed upon land, at times subsequent to her marriage?
 8. What are the provisions of the Statute as to the mode of pleading in cases of prescription?
 9. When does the right to enjoy an easement over land become absolute, when the land is vested in one person for life, with remainder to another in fee?
 10. What proceedings must be taken, and within what periods, in order that a mechanic may have a lien upon lands, upon which he has expended labour and material?
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EXAMINATION FOR CERTIFICATE OF FITNESS.

EASTER TERM, 1879.

LEITH'S BLACKSTONE—TAYLOR ON TITLES.

1. What was the necessity for the statutory provision that no descent cast, discontinuance or warranty should toll or take away a right of entry?
2. (1) Land is granted to A. and his heirs to hold to the use of B. and his heirs, with a proviso that if B. omit to do a certain named act, within a year, then A. is to hold to the use of C. and his heirs. B. does omit to do the act.
(2) Land is granted to A. subject to a rent charge in favour of B., to hold during his (A.'s) life, or until default in payment of the rent, with remainder to B. in fee. A. makes default in payment of rent. Within what time must C. in the first case, and B. in the second, commence an action for the recovery of the land?

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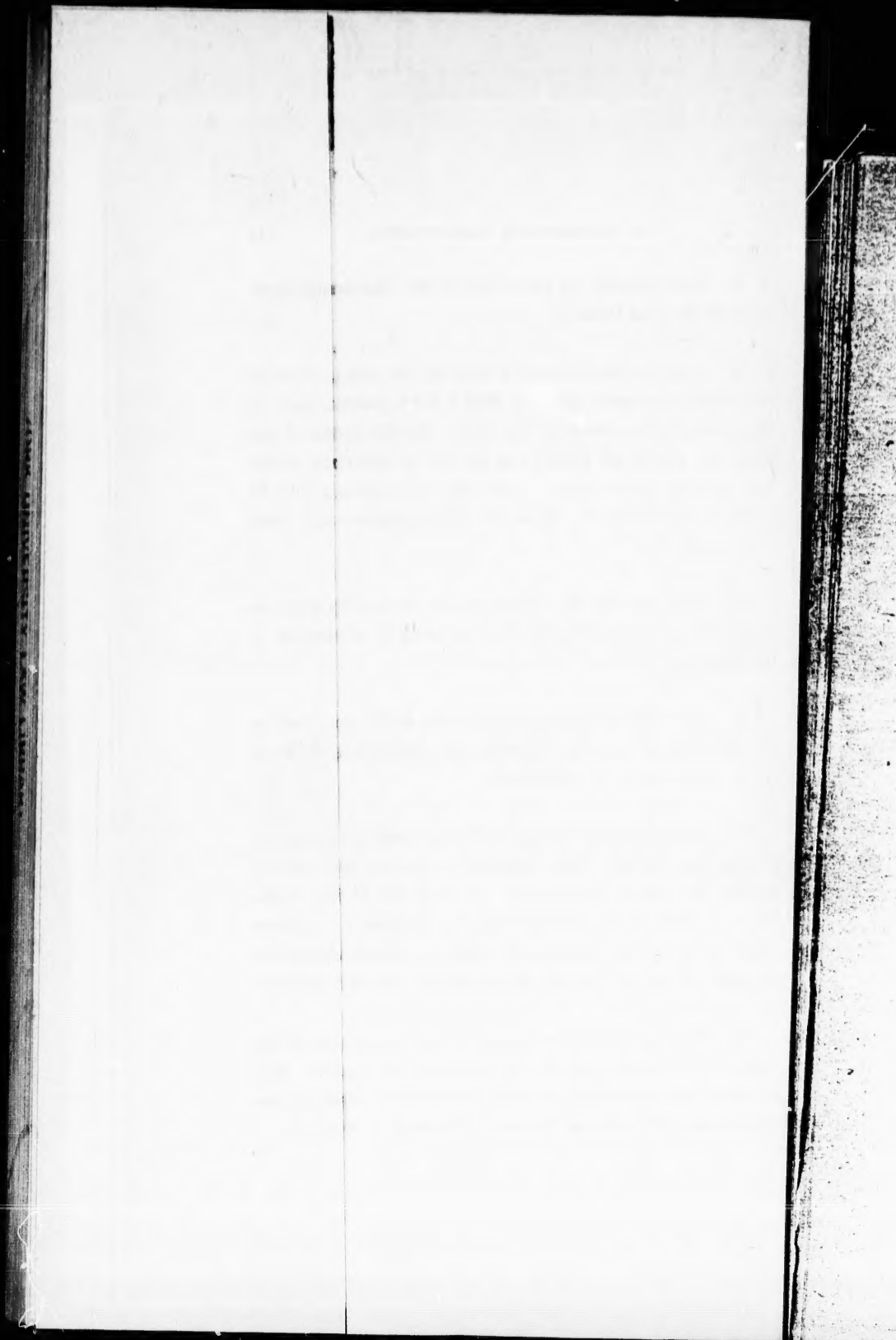
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3. State shortly the provisions of the Statutes of Mortmain in force in Ontario.
4. After the execution of a lease for five years, the lessee repudiates the lease, alleging that a third person, and not the lessor, is the owner of the land. By the terms of the lease the rent is all payable at the end of the term, which has yet four years to run. Can any immediate action be taken by the lessor? If so, for what purpose and upon what ground?
5. State shortly the various modes devised by religious corporations for evading the laws relating to alienation in mortmain.
6. Give some of the rules applicable to the construction of the Queen's grants, showing the distinction between these, and grants, by individuals.
7. A creditor of a testator, who was possessed of goods of but insufficient value, but was seised of real estate, desires to obtain payment of his debt out of the lands. What modes of proceeding may be adopted? Answer fully, showing the manner of pleading which should be adopted on both sides, and giving reasons for your answer.
8. State precisely the result of the provisions of the Statute of Frauds and of the Consolidated Statute (cap. 82) as to the execution of wills—giving the effect of the judgment of Mr. Justice Wilson in *Crawford v. Curragh*.



9. What is the present law, as to proving title deeds at a trial by production of memorials, or certified copies of memorials?

10. In what manner can you obtain production of title deeds by a Registrar? Answer fully and precisely.

Ex. W. J. F.

1-26-17